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EDITORIAL COMMENT

In spite of the proven advantages of asphalt pavement, Berlin authorities have resolved to abandon it because of the danger it offers in wet weather. The treatment of asphalt already laid to circumvent the skid demon is described by Dr. Mosher in his department, Municipal Activities Abroad, in this issue.

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According to newspaper reports, the efforts to submit the proposed new charter to the voters of Milwaukee next spring have been abandoned. A recent amendment to the state's home-rule enabling act has increased the difficulty of drafting a desirable charter. Under this amendment each charter ordinance must designate specifically what laws it supersedes. Attorneys advise that it would require two years' study of the statutes before a charter can be drafted in compliance with this provision. Even then the result would be uncertain.

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Writing in this issue, Joseph T. Miller, chairman of the Metropolitan Plan Commission of Allegheny County, makes reply to Mr. Faust's criticism of the Pittsburgh consolidated charter published in our August number.

Mr. Miller feels that the earlier article did great injustice to the movement for metropolitan government in Pittsburgh and injured its chance for later success. Those who read Mr. Faust's article should give equal consideration to Mr. Miller's.

The commission is proceeding with the effort to re-submit the charter for a second vote. The efforts thus far have been frustrated by an adverse verdict in the Allegheny County court of common pleas. The charter act under which the proposal was presented last June did not provide for re-submission. It is, however, the belief of the commission, and was apparently that of the legislature, that authority for re-submission was contained in the constitutional amendment authorizing the charter act. The case has been appealed to the state supreme court, which has placed it at the head of the list for early decision.

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New Loans Will Raise Taxes

Philadelphia is considering a miscellaneous bond issue of fifty-five million dollars. Practically all of the bonds are to run for fifty years. The largest items are fifteen million dollars for the equipment and improvement of subways, elevated railways, bridges, and other transit facilities. The next largest items are three million dollars for the department of health and three million dollars for sewage treatment plants, inter-

cepting sewers, pumping stations, and the like.

In an announcement to the taxpayers the Philadelphia Bureau of Municipal Research points out that $1.12 of the present $2.85 tax rate is for debt services. The city and school district debts have increased almost 300 per cent since 1920. How much longer, asks the Bureau, can this pace be continued? Some of the proposed loans are for recurring charges which might more properly be met in other ways than through general bond issues.

The extreme length of the term of the bonds is also questionable. Philadelphia was once known as the city which used the proceeds of fifty-year bonds for the purchase of street brooms. It is doubtful whether a fifty-year bond to build a swimming pool is much in advance of this practice.

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New York City's Health

After two years of study of the city's health needs and its facilities for meeting these needs, the Welfare Council of New York City has made public its report in the form of a "Health Inventory of New York City." The Inventory has been hailed as the most important document on health that New York has seen and as one bound to influence the future work of all health agencies, public and private alike.

The findings reveal that 125,000 to 200,000 persons in New York City are sick in bed every day, and that two to four times as many more are ill, though not incapacitated. The annual cost of care for the sick is approximately $150,000,000, of which $75,000,000 represents the annual loss of wages due to illness. An even greater loss results from diminished productivity and loss of future earnings arising from chronic illness and preventable premature death.

For the treatment of disease the city has 11,000 physicians, 12,000 nurses, 6,000 dentists, 200 hospitals, and innumerable druggists, laboratories, and quacks. There are about 300 agencies furnishing organized health services; of these 222 offer clinic and home-visiting service. The large part played by governmental agencies is shown by the fact that of the 2,400,000 visits annually to clinics, 828,000 are made to clinics of the city health department; of the 1,900,000 home visits a year about 800,000 are made by the staff of the health department.

Manhattan receives the lion's share of visiting and clinic facilities to the extent of half of the whole amount of such services. Her heavy day population entitles her to more extensive facilities than the other boroughs, but the fact remains that the distribution of health services is uneven. This unevenness is most marked in the case of private agencies, the health department's services being spread with greater equity.

New York's budget for official and voluntary agencies totals $8,500,000 a year or $1.42 per capita. St. Louis spends $1.50 per person, Boston $1.53, Cleveland $1.67, Montreal $1.81, and Cincinnati $2.09.

The emphasis is still upon cure rather than prevention. The ratio of expenditure for cure to expenditure for prevention is 18 to 1. Such a ratio, the Welfare Council points out, is not the result of wisdom in planning but of history.

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Municipalities as Art Patrons

In dire necessity after the war German artists formed an association which has proved to be very profitable from their point of view and which is undoubtedly contributing to

the artistic life of the German people on a wide scale. Inasmuch as the patrons of the fine arts, i.e., the church, the state, and wealthy collectors, were unable to indulge their taste after the war, the artists organized an association and secured through the coöperation of the Prussian Government a number of beautiful rooms in the Castle of Berlin for exhibition purposes. They maintain here a permanent exhibition of the works of the members of the association. A number of the leading and most gifted painters in Prussia are members of the union which is described in a recent number of *Der Städtetag*.

Two important policies were adopted at the outset that aimed to stimulate a more general purchase of their work. The first was to sell works of art on the instalment plan, payments being made over a period of twenty-four months. This proved to be very profitable. Secondly, provisions were made whereby paintings, drawings, etc. may be rented at a regular monthly rate. A subscriber may select works valued at fifty times the amount of the rental; that is to say, if he pays $100 a month he may rent works of art that are valued at $5,000. Furthermore he has the privilege of changing the picture or pictures as he sees fit. In this way it is possible for him gradually to select such paintings, drawings, etc. as are suitable for his taste and surroundings. Another interesting feature is that if the subscription is kept up for a year the renter may retain as his own property works valued at fifty per cent of what he has paid in the form of rentals. That is to say, if he pays at the rate of 1200 marks a year he may become the owner of a picture or pictures to the value of 600 marks.

Not alone private individuals, but certain municipalities have benefited from this arrangement. For instance, one city, Luckenwalde, has been a subscriber at the rate of 300 marks a month for something over a year. For this amount it has had on exhibition works of art in oil and water colors, pastels, sculptures, etc. to the value of 15,000 marks. The works of art are exhibited in schools, hospitals, and rooms of public buildings. A change in the selection is made once or twice a year and all of the pictures that have been rented in this way are brought together and exhibited at least once in a public exhibit. The first collection consisted of fifty works.

The city of Frankfurt has also taken advantage of the above provisions, having selected a limited number of works by some of the outstanding artists. Danzig is paying 400 marks a month for the same privilege. It is anticipated that the Reichstag itself will enter a contract calling for rentals to the amount of 1,000 marks a month. The pictures will be used for the purpose of beautifying the plain and unadorned offices of the members of the Reichstag.

One by-product of the above arrangement is that many of the works which are on exhibit under the auspices of the city are purchased by local residents and thus become a permanent possession of the community. The enterprise of the German artists and the artistic appreciation of the German municipalities might well be emulated in other countries.

W. E. M.

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Important Judicial Decisions

Professor Tooke in his department, Judicial Decisions, reports this month three cases which are of especial significance to everyone concerned with municipal government.

The first is a decision of a U. S. circuit court of appeals against the

constitutionality of a Cincinnati ordinance authorizing excess condemnation of property under section 10 of article 18 of the state constitution. The evidence showed that the real purpose of the condemnation was to sell such excess at a profit and devote the proceeds to pay for the improvement. The court held that under the fourteenth amendment to the constitution of the United States mere financial profit cannot be held to be a public use justifying the appropriation of private property even upon full payment to the owners.

Few advocates of excess condemnation rest their case upon the profit argument. Indeed, with respect to recapture of a part of the enhanced value, there is little which cannot be more easily secured by the method of special assessments. In the Cincinnati case excess condemnation does not appear to have been necessary to protect the improvement or to enable effective utilization of remnants.

Professor Tooke suggests that with the profit-taking element removed nothing is gained by placing excess condemnation amendments in state constitutions, since an excess taking which would satisfy either the remnant theory or the protection theory would probably be sustained as a public purpose under the general principles of eminent domain. If this is true, and we believe it is, the travail involved in securing such amendments, as recently witnessed in Michigan, seems unnecessary in most states.

Judicial decisions on excess condemnation under statutory authority are few. They were rendered before city planning and zoning, as we know them, had developed. In view of the general understanding of city planning, it is probable that the courts today would take a more liberal attitude towards legislation authorizing cities to condemn property in excess of what is physically needed for the improvement.

If the Ohio decision reaches the United States Supreme Court and is sustained thereby, it will settle once and for all the question of profit-taking through excess condemnation, and will do much to remove opposition to the proper use of excess condemnation in other connections. The fear that the municipality might enter into the real estate business has been one of the most effective deterrents to the excess condemnation movement.

In the second case the Supreme Court of Louisiana sustains a zoning ordinance ordering the abandonment within one year of a non-conforming use in a restricted residence district. Heretofore, zoning laws have been careful not to disturb present uses, but the Louisiana court goes further and holds that the discontinuance of a non-conforming use may be a legitimate exercise of the police power.

Another case of special interest relates to the unsuccessful effort of Fall River, Massachusetts, to rid itself of its state-appointed board of police through the adoption of "Plan D" of the optional charter law of the state. The question was whether the adoption of the new charter abolished the existing board and vested power in the city to appoint a new board of its own. The court held that the act did not directly or indirectly confer any new powers upon a city adopting one of the optional forms of government described in the act.

CLEVELAND AGAIN DEFEATS ATTACK ON CITY MANAGER CHARTER

BY MAYO FESLER

Director of the Citizens League

On August 20 Cleveland voters defeated the third effort to abolish their city manager charter. :: :: :: :: :: :: ::

THE voters of Cleveland, on August 20, defeated for the third time a movement to abandon the city manager form of government and return to the mayor-council form. This time the proposal met defeat by a majority of only 3,044. The majority in November, 1927, with double the number of votes, was 6,416; and in April, 1928, with about the same vote as this year, the majority against was 3,232.

Under the home-rule provisions of the state constitution, the voters of any city in Ohio, by a 10 per cent petition, can initiate a charter amendment consisting practically of a new charter. In 1921 the city manager charter was so initiated and adopted. In 1927 ex-Mayor and ex-Governor Harry L. Davis led a movement to initiate a proposal to amend the city manager charter, elect a council of thirty-three members from thirty-three wards and choose a mayor with practically unlimited administrative authority, even to control over the civil service commission. Davis and his political followers were "out" and wanted to get "in."

In the first fight the Republican and Democratic organizations joined with the Citizens League and the other independent forces to defeat Davis and retain the city manager form. It was a battle royal between the forces for good government and the discredited political group that wanted to get back to the feed trough. After a tremendous effort and expenditure of a large campaign fund the city manager charter was saved by a very narrow margin. In April, 1928, the same political group decided to make another attempt to adopt a strong mayor-council charter —a seriously defective document— but almost identically the same as the one which was defeated in 1927. The political party groups kept their hands off in this fight and the campaign to retain the manager plan was led by the League of Women Voters, backed by the Citizens League and the other independent groups.

COUNCIL SCANDALS STIR THE PEOPLE

The third and latest attempt to overthrow the city manager charter followed the councilmanic scandals of last spring, the acceptance of money by one councilman for services rendered to a disabled policeman in securing financial aid from the city, and the attempted profiteering of three or four other councilmen in connection with the purchase of plots of land for city purposes. The indictment of four councilmen and the conviction of two of them by a young and vigorous prosecutor who had been elected in November over the Republican organization candidate, stirred the people thoroughly. The city manager, with a false sense of loyalty, sought to minimize the misconduct of these councilmen, and this led the public to believe that the administration was

guilty along with the law-breakers in the council.

There was also a group of sincere but ill-advised enthusiasts who wanted to see Peter Witt (ex-councilman) elected mayor under a P.R. system of voting; and they knew that the only way to secure that result was by changing the city charter. These took advantage of the unpopularity of the council and the manager, resulting from the land purchase scandals, and submitted the proposed amendment to the city council in a petition signed by 26,000 petitioners. The document which they submitted was identical in every respect, except one or two items, with the one twice defeated. Even the old plates had been preserved with their typographical errors and the petitions were printed from them.

REPUBLICAN POLITICIANS JOIN

When the council found the petitions to be sufficient and the date of the election had been fixed for August 20, ex-Mayor Davis and his group called a meeting, organized a committee with Davis as chairman, and took complete control of the conduct of the campaign.

The friends of the city manager government then called a mass meeting, set up a Progressive Government Committee with the retiring president of the Citizens League as chairman, issued a call to arms, and instituted a campaign to save the city manager charter. In this campaign the Republican organization, which had been seriously crippled by the dismissal of its chairman and two chief lieutenants from the board of elections because of maladministration, joined with the Davis group to overthrow the charter. The Democratic organization supported the Progressive Government Committee.

The advocates of the charter amendment found themselves without substantial funds while the Progressive Government Committee was able to raise a considerable campaign fund. The three daily newspapers were opposed to the charter amendment. Prominent ministers, Catholic, Jewish, and Protestant, issued strong statements in opposition to the proposal. A house-to-house canvass was made by the women. When the campaign was launched the general impression was that the amendment would carry easily because of the unpopularity of the council and the city manager, coupled with the dissatisfaction of a large mass of voters with proportional representation as a method of election. The city manager himself was kept in the background during the campaign, and the fight was made solely on the question of retaining of the city manager form of government.

DAVIS PUT ON DEFENSE

The campaign committee and the newspapers were able to force Davis and his cohorts into a defense position which compelled his speakers to spend most of their time defending Davis' discredited administration back in 1916–22, instead of making attacks on the weak places of the city manager administration.

The Citizens League issued bulletins analyzing the numerous defects of the proposed amendment and declaring that the method of election as proposed would practically insure minority government in Cleveland. The League's analysis served as the basis of the campaign arguments.

The Davis forces advanced only three stock arguments which the Citizens League in its final bulletin declared had no foundation in fact and made no appeal to sensible voters. The three arguments were:

(a) "Restore the government to the people."

(b) "The city manager is a czar with a life job."
(c) "The city manager plan is unsound in principle."

When the campaign waxed warm and the women began to make reports on their house-to-house canvass, the Progressive Government Committee became more optimistic. The Davis forces had little organization, their meetings were poorly attended, and they had no money with which to employ workers. Since their workers had to come from the regular party workers who are accustomed to being paid for their work, the Davis forces were unable to muster much of an organization. A week ahead of the election it became quite evident that the defective amendment was again doomed to defeat. During the last few days of the campaign Mr. Davis' appeal to the voters was to the effect that "this is your last chance to take back the right to elect your chief executive and return to the government of the people." But the appeal had lost in drawing power.

Now that the defective charter has been defeated for the third time, the Progressive Government Committee will continue its work, at least for this year, by placing better candidates in the race for the city council; and the Citizens League will appoint an unofficial charter committee to consider all of the objections to the present manager form and to submit an improved city manager charter to the voters within the next twelve months.

THE PITTSBURGH CONSOLIDATION CHARTER

BY JOSEPH T. MILLER
Chairman, Metropolitan Plan Commission of Allegheny County

This is a reply to the article by Martin L. Faust which appeared in our August number. Mr. Faust criticized the charter and the tactics of the commission of which Mr. Miller is the head. The charter submitted by the commission was radically amended by the legislature and failed to secure the necessary two-thirds vote in a majority of the municipalities of the county at the election on June 25. :: :: :: ::

The National Municipal Review in its August issue presented an article which discussed the recent election in Allegheny County, Pennsylvania, on a consolidated city-county charter submitted by the legislature of 1929 to the people of the territory for their acceptance or rejection. There were certain statements contained in that article to which the Commission to Study Municipal Consolidation in Counties of the Second Class of said Commonwealth, through its chairman, the writer of this article, takes most decided and unqualified exception.

The following are the official figures of the vote cast at the election on June 25.

	Yes	*No*
Pittsburgh, City of the Second Class	50,402	6,976
McKeesport, City of the Third Class	584	7,121
Duquesne, City of the Third Class	627	754

	Yes	*No*
Clairton, City of the Third Class	538	715
66 Boroughs	25,086	15,705
53 Townships	10,570	9,702
Total	87,807	40,973

This shows that the vote in the county as a whole was decidedly better than two to one. There was a majority vote of 9,381 in the 66 boroughs and in the 53 townships a majority of 868, while the cities gave a majority of 36,585. Of the 122 municipalities, 84 voted for the charter by a majority vote but the charter secured only 49 municipalities out of 122 by the necessary two-to-one vote. Inasmuch as the legislature had required that a two-thirds vote for adoption be cast in a majority of the municipalities we were short 13 municipalities.

An interesting fact is that if the proponents of the charter had been able to secure 374 additional votes and had been able to spot those votes in thirteen municipalities in numbers varying from 1 to 54, the final result would have been reversed, the necessary 62 would have been secured, and the charter adopted.

Three hundred seventy-four votes in a territory covering 725 square miles and affecting at least 1,400,000 people, is something not to be discouraged about. A long list of the causes of the defeat of the charter could be prepared and would prove interesting reading but we forego and desire to offer no alibis for the result.

The charter submitted in the first instance by the commission went far beyond what was originally intended when the commission first began its work. It was, in fact, quite idealistic in character and scope and as results proved, much beyond what was possible of accomplishment at the present time. Neither the people at large nor those deeply involved in political matters were ready to accept the full recommendations of the commission, and the legislature of the state was by no means the least of these. It was amazing to the members of the commission, when the commission's charter was first made public, to note the favorable commendations of its effort that were received from students of public affairs and not within the circle of those actively in "politics." It is true that, when the charter of the commission was once announced, a storm of protests rose from many sources and especially from those in public positions of trust and responsibility whose leadership and control over those who actually vote is far reaching and most formidable.

THE CHARTER IN THE LEGISLATURE

The report of the commission was submitted to the governor on March 5, 1929 and the commission's charter was introduced into the senate of Pennsylvania by Max G. Leslie of Pittsburgh, an outstanding Republican organization leader. The legislative record shows that the commission's charter was finally amended in the senate on March 27 and passed by the senate on April 1, 1929; amended in the house on April 8, 1929 and passed by the house April 8, 1929 and was approved by the governor on the 18th day of April.

From March 5 until April 8, the proponents and opponents of the commission's charter were always in contact and the discussion between representatives of the commission and those representing different ideas was almost constant. In addition to the commission's charter no less than three other charters were discussed or put in form for introduction in the legislature. The result of all this turmoil was finally that the original charter of

the commission was amended to a very material extent. Eight of the original twenty-three articles were dropped, two of the original articles rewritten. But the commission feels that while the amended charter contained only about 52 per cent in volume of the original charter, about 65 per cent of the subject matter first offered by the commission was retained in the amended document. Certainly 100 per cent of the real fundamentals survived.

Naturally, in the view of subsequent events, many mistakes of judgment are now apparent. One was the fact that the proponents of the federated city thought it wise to submit the question at a special election. As events developed, this special election had to be set at a time when the people seemed unwilling to be bothered with political matters. It was fixed, for certain specific reasons, for June 25. This was a time of year when outdoor sports, amusements, and recreations turned the minds of the people to something else than elections.

In the presidential election of 1928, 376,924 votes were cast in Allegheny County. The total cast in the charter election of 1929 dropped to 128,780.

HOW THE "JOKER" HAPPENED

The political "joker" inserted in the constitutional amendment, to which Professor Faust refers, was that the charter in order to pass must receive not only a majority vote in the county, but also a two-to-one vote in a majority of the municipalities (or 62 out of 122). Professor Faust says the alteration has never been satisfactorily explained. This is in error because the manner in which this "joker" happened is fully known. The commission desired to have the charter accepted first by a majority of the people of the county and second, by a majority of the municipalities by a majority vote. The opponents of the charter, desiring to make it as difficult as possible, undertook to provide that the charter to be accepted must be passed by a majority of the people of the county as a whole and, in addition, by a majority vote in not less than two-thirds of the municipalities.

It is interesting to note that the charter did carry 84 municipalities (more than two-thirds) by a majority vote.

Following the defeat of a "wide-open" amendment (which would have given no protection to the boroughs and townships) in the regular session of the legislature in 1925, a revised amendment was presented by the commission to the special session which met in 1926. Identical drafts were introduced in both houses, but the public printer in printing the two bills, one for the house and one for the senate, did not put the same number of printed lines on the first page of the two bills. Senator Mansfield, in amending the act in the senate, made his amendment read as he intended, viz., "If a majority of the electors voting thereon in each of at least two-thirds of all the cities, boroughs and townships thereof vote in the affirmative, the act shall take effect for the whole county." Senate Bill 54, File Folio 393, Printer's No. 48 of the session of 1926 so reads and has on the first page *fourteen* lines and on the second page three lines before the inserted words "of at least two-thirds of all," so that the amending bill evidently read—"Amend by striking out the words—'a majority of' in line three, page 2, and inserting after the word 'of' 'at least two-thirds of.'" But when the amending provision reached the house, Representative McBride undertook to amend line 3, page 2 of the House Bill No. 34, File Folio 123, Printer's No. 32 by striking

out the words "a majority of" and inserting the words "at least two-thirds of all." Because the house bill carried *thirteen* lines only on the first page, the words "at least two-thirds of all" went in at the wrong place. The Senate Bill on the second page read as follows: "If a majority of the electors voting thereon in the county as a whole and a majority of the electors voting thereon in each of at least two-thirds of all the cities, boroughs, and townships thereof vote in the affirmative, the act shall take effect for the whole county."

The House Bill read as follows: "If a majority of the electors voting thereon in the county as a whole and at least two-thirds of all the electors voting thereon in each of a majority of the cities, boroughs and townships vote in the affirmative, the act shall take effect for the whole county." The whole trouble was caused by the printer setting in the Senate Bill 127 words in 14 lines on page 1 and on page 2—49 lines and then setting the House Bill differently, so that on page 1 there were 117 words in 13 lines and on page 2—61 words in 6 lines.

When the two bills as passed were checked by the legislative clerks, it was found that they were not identical and that they must go to the conference committees. These committees, hastily brought together from the house and the senate in the late hours of the session, evidently picking one of two bills from the table and agreeng to concur on the one picked up rather than the one left on the table, happened to agree on the house bill. So the amendment as passed by the legislature was neither the amendment of Mr. Mansfield in the senate nor the original report of the commission but the amendment offered by Mr. McBride in the house. Thus a printer's option in setting his type eventually became the trick of fate or political "joker" that caused the failure of the charter on June 25. The commission does not believe that the result was intentional on the part of either Mr. Mansfield or Mr. McBride.

The commission today is not fearful even of this high hurdle embodied in the constitution and believes that the charter will certainly be accepted at some future date.

CHARTER CONTAINED SUBSTANTIAL IMPROVEMENTS

The commission's view is totally different from that of Prof. Faust that the charter as voted on contains few points that would have resulted in substantial improvement in the government of the metropolitan area. It retains all the fundamental principles laid down in the constitutional amendment. It contains everything that the proponents of the movement for a federated government started out to get. It gave the old City of Pittsburgh the benefit of the population of the district, created the proper agencies to provide for all metropolitan necessities, gave to the 122 units local self-government, control of local affairs, retention in office of their own public officers, protection for their own police and fire departments and many other features vitally important to the small communities, including their present power to raise their own tax and spend it locally, to maintain their own bonding power and spend the proceeds for their own individual improvement.

NOT A POLITICIANS' CHARTER

The commission resents most strenuously Mr. Faust's statement that the charter voted on at the special election was a politicians' charter. It was not. It was the commission's charter, amended by two of the ablest lawyers of the Allegheny County Bar, assisted

by the experienced staff of the county and city governments in an advisory capacity. It was a meeting of minds after the bitterest kind of controversy extending over a period of weeks. Differences were finally ironed out and a basis of common understanding was arrived at, which the commission understood would be acceptable to both sides. The commission on its part has carried out its best efforts to the fullest extent, recognizing that the amended charter was a great forward step, away in advance of existing conditions. While the commission did not believe the charter as amended by the legislature was as good as the charter first proposed, the members would have been false to their trust from the state, false to themselves, false to their fellow citizens, and false to their communities had they not supported it.

It is true that the eight articles omitted from the final draft revised the assessment system, introduced an up-to-date system of minor courts, consolidated the welfare agencies, created a department of personnel, set up an advanced accounting system, and established a department of research. But the commission recognized that the situation did not warrant a "do or die" attitude on their part at the moment. The matters eliminated could be written into the charter in the future at such time as the people were fully educated to them and the authorities were willing to accept them. It is a fact that Professor Thomas H. Reed, who was in charge of the department of research of the commission and who had played a major part in drafting the commission's opinions and ideas in the form of a charter, made the statement to the chairman more than once that the commission should accept the amended charter if for no other reason than that it did provide such a tremendous improvement over our present system in the matter of financial control of public money.

THE COMMISSION'S SKIRTS ARE CLEAN

The statement that as soon as the city and county politicians understood the commission's charter proposal they dispatched henchmen to Harrisburg is most absurd, because any elimination and all amendments proposed were accomplished by conference in Pittsburgh and framed there. The commission's position never changed. They stood for their charter first, last, and all the time, but they recognized that they were only the agents of the legislature, having a mandate to perform a certain service which was to make certain suggestions in the form of a tentative charter. They could not go beyond this. They never agreed at any time to a single amendment or the change even of a punctuation point and stood firmly for the best that they knew. But the amended charter as it came from the legislature was all that under existing conditions could be expected or hoped for.

It is not fair or true to say that the Chamber of Commerce or any of the leaders of this marvelous community have their sole interest in a metropolitan plan from a census standpoint only. It is only ridiculous. Thousands and thousands of our citizens know it to be essential to have new agencies to perform metropolitan service and the new charter sets up this machinery.

It is exactly the attitude expressed by Professor Faust that is responsible today for the defeat of this great forward movement for the time being. The bitter enemies on both sides found fault from the extreme viewpoints and the "constitutional reformers" accomplished nothing because they couldn't get everything. The only people who are satisfied are those who want no change at all and are entirely

agreeable to have everything continue as it is for their selfish interests.

Professor Faust states that "the really disgusting part of the whole procedure is that neither the commission nor any civic body in Pittsburgh offered any whimper to the politicians' treatment of the charter." Both the commission and all the civic bodies knew and acknowledged that the amended charter, being a great advance, ought to be accepted rather than rejected because it didn't contain everything that they might ask for. The president of the Bar Association and hundreds of others disagreed with the commission on the points of the proposed minor court system, so that was no meeting of minds on this point. Each and every interest had their own ideas, even the squires and the constables had theirs. It is true that certain strong representatives of the Republican organization and the Democratic organization supported the amended charter. They did so each from their own viewpoint because of the influences working to that end on account of the sincere merit of the proposals. It is true that the Chamber of Commerce, the many boards of trade and business men's associations, as well as the League of Women Voters, also supported the charter, hand in hand with other civic bodies and social agencies. It is true that the recognized leaders who were ever "independent" of any "organization" formed a body and did their utmost to secure the adoption of the charter. The commission submits that in view of these facts there must have been great and real fundamental good in the amended charter itself, although the commission knows it was not as idealistic as it might have been. The people generally are not ready for an idealistic charter and nobody knows this better than "the politicians."

POPULATION NOT CHIEF CONSIDERATION

From one viewpoint only the movement was to make Pittsburgh stand forth in the world as a great city. There were many other considerations. As far as population goes it is today, we believe, the fourth city of the United States and acts, commercially, industrially, socially, financially and in every other way as the fourth city should act. Politically, this is not so. It is broken up into 122 units. Population does attract population. Industry does attract industry. Commerce does attract commerce. It is easy to treat and criticize such a movement for advancement from a flippant, hypocritical standpoint, but it is hard to make our dreams for such movements come true and to build as one should build for metropolitan necessities and metropolitan needs. It is difficult to recreate a political system—to change it from antiquated form to a powerful up-to-date new organization that could make not only a city bigger but vastly better and a greater servant to its people and to this nation, than it has been or can be under the old system.

The policy of the commission has been and will be to stand solidly back of the amended charter, as it has done since the legislature submitted it, because it is right as far as it goes. The commission has asked the commissioners of Allegheny County to resubmit it as drawn by the legislature to the people in its original form. It is recognized by the commission that the legislature is the only authority that has power either to amend it, modify it, or submit a new charter but takes the position that the original charter, as passed by the legislature, can now be resubmitted by the commissioners of Allegheny County. The commissioners on August 6 asked the court of Allegheny County for a ruling on the

matter of resubmission. The decision of the lower court was that the charter can not be resubmitted without the legislature's authorization. It will be taken to the supreme court for the opinion of the highest court of the state and the future is looked forward to confidently by the commission. The people have spoken in an outstanding way. The idea of the federated municipal government in Allegheny County has twice had the stamp of approval of the people; first, by the adoption of the amendment by a vote of 85,000 and second, by a majority vote for the charter of 46,000. The movement for the federated city will eventually be accomplished. How soon is a matter for the future to unfold.

NATIONAL PARTIES IN MUNICIPAL POLITICS

BY O. GARFIELD JONES
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In Toledo, the writer believes, the Republican organization has become converted to the wisdom of abstaining from participation in municipal politics for the sake of greater solidarity in state and local campaigns. Separation of local from national politics is desirable in order that national parties may be increased in strength and vigor.

THE argument in favor of keeping national party alignments out of municipal politics usually starts with the basic proposition of the municipal reformer that it is best for municipal government. From this it is only a step to the next assertion that, after all, voters should have intelligence enough to vote for issues and for candidates irrespective of traditional lineups. The last step in this rationalistic sequence is that national parties are an evil, are unnecessary for an intelligent electorate, and that, consequently, national parties themselves should be abolished.

On the other hand, the students of national political history, like Dr. Beard or Dr. Sait, see quite clearly that the national parties have performed a most vital service in the evolution and functioning of our national government; consequently, they have little patience with an argument that leads to the ultimate conclusion that national parties should be abolished. Furthermore, these students of the functioning of national parties throughout the various states know that the nonpartisan ballot, far from being an instrument for the overthrow of national parties, is, in certain southern states, an instrument by which one national party strengthens itself. (The nonpartisan ballot makes it difficult for the ignorant Negro to vote a straight ticket for the opposite party.) Also these students of party history in America and elsewhere know that the nonpartisan ballot is used in the national elections of England where national party solidarity is quite as vigorous as in the United States.

These students of national party politics start with the proposition that national parties are vital to the func-

tioning of democracy in the nation; they go next to the proposition that the nonpartisan ballot obviously does not interfere with the functioning of national parties, and arrive at the conclusion that it is useless to attempt to keep national parties from functioning in municipal politics.

Would it not be more scientific to start with the two propositions of which we are reasonably certain and then discard all subsequent arguments that do not square with these two basic principles?

My proposition number one is that national parties are vital to the functioning of national democracy and should be kept as strong and vigorous as possible. My proposition number two is that municipal politics have to do with issues which have no relation to national issues and, consequently, municipal politics should be kept free from national party interference.

MUNICIPAL POLITICS REDUCES PARTY EFFICIENCY

This second proposition has been so fully developed in almost every text on municipal government that a repetition of the various points of the argument would serve no purpose here. Proposition number one, however, has not been so fully treated.

The most authoritative declaration on the subject of national parties in municipal politics is that of the late Boies Penrose made in connection with his analysis of Philadelphia's new charter about 1920. He wrote:

> One general principle is establishing itself; that municipal government increases in efficiency in the exact ratio in which it is divorced from partisan politics. In this connection I might state that in my judgment party efficiency and capacity for general public service increases in the ratio in which it disentangles itself from municipal politics. For instance, party principles are not even a secondary consideration with the Democratic Tammany machine in New York or the Republican contractors' machine in Philadelphia. Each of them exists solely to promote selfish interests, and each of them is an incubus and a liability to the party with which it is aligned.

Certainly the municipal reformers can say "Amen!" to this statement of an eminent national party leader who could not be accused of disloyalty to or ignorance of national party life.

The loyal supporter of national parties and the loyal supporter of municipal efficiency can join hands in the cause of real "non-national partisanship in municipal politics" once the point is convincingly established that it is best for the national parties to keep out of municipal politics. The following experiences from Toledo's recent political history are given as argument for this proposition.

TOLEDO'S EXPERIENCE

In the municipal campaign of 1927 W. T. Jackson, formerly service director, W. B. Guitteau, then service director, and Grant Northrup, vice-mayor, all Republicans in national politics, survived the mayoralty primary elimination contest in August. The Republican organization endorsed Dr. Guitteau and made a vigorous campaign for his election. Mr. Jackson, running on a "smash the machine" platform, was elected. However, in the course of the next year the Republican boss of Toledo gave Mr. Jackson the political plum of being one of the Hoover electors in Ohio.

In this same 1927 election a charter commission for Toledo was elected and straightway the city was divided into two political camps, one favoring the Hare system of proportional representation, the other against it. The Republican organization led the fight against P. R., while Percy Jones, a Republican member of the charter

commissioner, was one of the leaders of the fight for P. R. Nevertheless, the Republican boss "teamed up" with Mr. Jones in the April primary as the two Hoover delegates to represent Lucas and Ottawa counties in the national Republican convention of June, 1928.

It was just because the Republican boss was a real political leader interested primarily in national issues that he gave these national party plums to the very men who had fought the Toledo Republican organization on local issues the previous year. Perhaps it goes without saying that it was for these same reasons that this particular city boss is now Toledo's distinguished representative in President Hoover's cabinet.

The question naturally arises, what does it profit the Republican organization of Toledo to split itself wide open in a municipal campaign during the odd-numbered years if the party plums have to be given to the party's municipal enemies during the even-numbered years in order to restore harmony and insure a united Republican vote for the state and national elections?

That the Republican leaders of Toledo are seeing the advantage of the nonpartisan idea in local matters is evidenced by their action with respect to judicial nominations and elections in 1928. While the Ohio law provides for a nonpartisan judicial ballot for the final election in November, it provides, quite inconsistently, for the nomination of judicial candidates in the party primary in August, although nominations may also be made by petition after the primary.

In August, 1928, the Republican organization of Lucas County (Toledo), contrary to their usual practice, did not make any nominations for the county judicial ticket in the party primary, thus compelling the judicial candidates to be nominated by petition, a method more in keeping with the spirit of nonpartisanship in judicial elections. Not content with this gesture, the Lucas County Republican organization finally endorsed one Democrat and one Republican for the two common pleas judgeships to be filled.

DOES IT PAY NATIONAL PARTIES TO REMAIN ALOOF?

Does it pay the local organization of a national party to stick to national political issues and to permit the spirit of nonpartisanship to prevail in local elections? In Toledo the answer seems to be that it does pay, because the Republican organization in Toledo today is a work of art. In few cities of the country is there an organization so strong and so complete in all of its ward and precinct ramifications with such a minimum of spoils or corruption to maintain it. In fact the large measure of support accorded it by the best element in Toledo, especially among the women voters, is due in part at least to this absence of corruption and to the recognition of the spirit of nonpartisanship in municipal and judicial affairs, where national issue have no place.

The conversion of Toledo's political leader to this side of the question was quite recent. For several reasons, one being his alliance with Roosevelt and the Progressives in 1912, Walter F. Brown in 1913 became *persona non grata* to the more conservative wing of the party and lost his position of leadership. He regained his leadership in 1920 when a combination of events made him floor leader of the Harding candidacy at the Chicago convention. After the sweeping victory of that year which returned the Republicans to power in all of the state and county offices as well as in the national government, Mr. Brown thought that he could lead the city out of the wilderness

in the municipal election the next year, 1921. Since the city of Toledo had been issuing deficiency bonds steadily for several years, there was real occasion for leading the city somewhere.

In spite of his strong preference for the quiet and dignity of judicial office, Mr. Brown persuaded Judge Bernard Brough to run for mayor. Judge Brough was elected mayor in 1921. He chose a strong cabinet and succeeded in balancing the city's budget. Civil service suffered somewhat because of the influence of the "grey wolves" of the party, but on the whole it was a good administration, and Judge Brough was reëlected in 1923 by a larger vote than at his first election. His second term was on a par with his first, but he refused to run for a third term.

In this situation the vice-mayor, a druggist who had proven a good vote-getter in his previous campaigns for the state legislature and for council, was picked to run for mayor and was elected through organization support and upon the promise of continuing the Brough régime.

FACTIONS WEAKEN TOLEDO'S ORGANIZATION

While this vote-getting druggist continued the Brough cabinet and quite capably filled the one vacancy, that of finance director, he quickly proved that as a municipal chief executive he was a good druggist. This administration brought continuous grief and discord to the Republican organization which reached a climax when the service director, W. T. Jackson, was fired while Boss Brown was out of town. The Republican organization received all the blame, a "new charter" movement was started at once, and a period of factionalism developed within the party which eventuated in the election of ex-Service Director Jackson as mayor in 1927 on a "smash the machine" platform. It was this disharmony within the party that was smoothed over in 1928 by the events described above as a part of the Hoover campaign of that year.

In Toledo one man has had the ability to lead the Republican organization into and out of municipal campaigns, but this position of leadership has also involved the responsibility for maintaining harmony within the organization. For the national organization to favor one candidate for mayor when two other Republicans are in the field is an effective method for destroying harmony within the national party organization. Recent events seem to indicate that, from his vantage point in the president's cabinet, Toledo's Republican boss has no intention of splitting the local organization wide open again by endorsing one candidate for mayor as against two other Republicans.

DETROIT AND TOLEDO COMPARED

In the neighboring nonpartisan city of Detroit this one-man leadership is lacking. That strong Republican city in a strong Republican state has no political boss. Consequently, there is no one to take the responsibility for throwing the entire weight of the city's Republican organization to any one candidate for mayor or for council. Even in the days of the partisan ballot in Detroit's municipal elections the Republicans calmly voted a Democrat into the office of mayor when a certain hard-working but decidedly eccentric Republican surprised everybody by winning the Republican nomination for mayor. Having been nonpartisan by nature even when the partisan ballot was in use, the voters of Detroit find it extremely easy to continue this nonpartisan practice now that the ballot in municipal elections is free of partisan designations.

Detroit differs from Toledo in that it has not had an outstanding party leader comparable to Walter Brown. In Cleveland and Chicago, on the other hand, the Republican party is split into two fairly equal factions which utilize every local political campaign to prove "who is best man." But who will say that the Cleveland or the Chicago situation is a good thing for the national party concerned?

When the rank and file of our American electorate become convinced that national party interference in municipal elections is as bad for the national party organization as it is for the city government, they will refuse to be led into fratricidal conflict to drive King George from the Chicago City Hall or to vindicate Harry Davis as the spotless champion of politics in Cleveland.

The argument against this proposition must consist of evidence that national party interference in municipal elections is advantageous for the national parties. This argument might also include evidence to show that it is advantageous to the national parties to have essentially municipal party organizations like Tammany of New York or the "Republican contractors' machine of Philadelphia" take an active, yes a leader's part, in national politics.

Local job-hunters' cliques we will always have with us, although such cliques are yielding ground to civil service and to the efficiency movement in administration. However, the proper relation between national parties and municipal politics is a different problem entirely. When we will have solved this problem to the satisfaction of our citizenry we will have national parties with more singleness of purpose and therefore more loyalty among their membership. We will also have more clear-cut issues in municipal politics and each city will then be free to achieve its own municipal destiny.

THE NEW ILLINOIS GAS TAX LAW

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This law, passed to meet the objections of the state Supreme Court to the earlier law, contains some novel features with possibilities of later trouble. :: :: :: :: :: :: :: :: :: ::

On March 25 the "Motor Fuel Tax Law" of Illinois was approved by the Governor. The act, which became effective August 1, imposes a tax of three cents a gallon on all motor fuels which are "suitable and practicable for operating motor vehicles." Kerosene is specifically exempted from the provisions of the act; so also is fuel in the tank of a motor vehicle operated into the state. It is further provided that any person who suffers a loss of fuel on which the tax has been paid or any person who pays the tax on fuel used for some purpose other than the operation of vehicles on the public roads shall be reimbursed.

It will be of interest to examine the new law from three points of view: (1) In what respects are its provisions different from those to be found in the gasoline tax acts of other states? (2) What provisions are made in lieu of those which the supreme court of the

state held unconstitutional in February, 1928?[1] And (3) what relative special burden will the act impose on motor vehicle transportation?

One unique provision is that authorizing refunds for taxes which have been paid on fuel subsequently lost "through any cause" (sec. 13). The nearest approach in earlier gasoline tax legislation to such a blanket provision is that in the West Virginia act (sec. 18) to the effect that a refund shall be granted for losses of gasoline "by reason of leakage or evaporation." This type of provision has been vigorously condemned as administratively inferior to one making an allowance for evaporation of an arbitrarily fixed amount, by both state officials and representatives of oil companies.[2] The provision apparently grows out of the effort made in the act to levy specifically on the road user, rather than on the dealers.[3] Indeed the specifications (sec. 6) with respect to shifting the tax are probably more explicit than are to be found in any other state.

A second provision (sec. 6) not found in other states authorizes the dealers who serve as tax collectors to report and, with the approval of the department of finance, deduct the amount of expense incurred in collecting and reporting the tax. The actual cost deductible shall not be in excess of 2 per cent of the tax due. While no such legislation is to be found in gasoline tax laws of other American commonwealths, it was not unknown in like statutes elsewhere. A number of the Canadian provinces include similar sections in their gasoline tax laws, and the state of Alabama incorporates an even more generous provision in her tobacco tax act.

[1] *Chicago Motor Club* v. *Kinney, State Treasurer, et al.*, 329 Illinois Reporter 120. The original statute is found in *Laws of Illinois*, 1927, pp. 758, *et seq.*

[2] Compare *First Annual Report of the North American Gasoline Tax Conference*, pp. 53 and 34, respectively.

[3] The obscurity of the earlier law on this particular point has given rise to continued difficulty in effecting a disposition of the gas tax receipts. The United States district court has ordered the dealers to show cause for shifting the tax to consumers, not specificially authorized in the 1927 law.

LIMITATIONS ON USE OF REVENUE

The statute is distinctive in the detail with which it restricts the use of revenues collected. It is provided that, after deducting the expenses of administration, two-thirds of the money collected shall be apportioned to the department of public works, and the remainder to the several counties in proportion to the amount of motor vehicle license fees paid by the respective counties. The funds apportioned to the department of public works may be used only for specifically designated purposes: construction or reconstruction of state bond-issue highways numbered, according to law, 1 to 185, or the elimination of grade crossings. There is a restriction to the effect that the funds may not be used for reconstruction except near large centers of population where rebuilding in a more expensive form is necessary to provide adequately for traffic needs.

The amounts allotted to the counties are restricted to two possible uses: payment of bond principal or interest when debt has been incurred for state-aid roads authorized by the 1913 roads and bridges act, or for the construction of such state-aid roads under the supervision of the state department of public works. It is definitely provided also that the revenues may be used to maintain state-aid roads.[4] A pro-

[4] Although the state will assume responsibility for the maintenance of such roads if "construction is of concrete, or brick, or asphalt on a concrete base" (sec. 9).

vision in the second sub-section of section 9 is that any county failing to maintain roads or bridges constructed by the aid of gas tax revenues to the satisfaction of the state department of public works will receive no further allotments until the county provides for proper maintenance.[1]

AVOIDANCE OF UNCONSTITUTIONAL PROVISIONS

Sections 6 and 7 of the 1927 Illinois gas tax law, making clumsy provisions for the distribution of the revenues collected, were the first found unconstitutional by the state supreme court. The two sections were defective in that they sought to assign the monies collected to funds already in existence and yet spend the revenues by methods different from those provided in the older legislation. The language of the statute was by no means clear. Thus the constitution was technically violated by the vagueness of the language (when read in conjunction with the motor vehicle law and the roads and bridges act); by the misleading title (since it said nothing about amending either of the previous statutes); and by failure to "insert at length" the laws revived or sections amended, as provided in the constitution.[2]

The 1929 act avoids these particular unconstitutional features by the simple expedient of creating a new fund designated the "Motor Fuel Tax Fund." The section (sec. 8) then makes provision for the disposition of the motor fuel tax fund, as already outlined.

Section 10 of the 1927 law, the other item condemned by the supreme court, sought to provide for rebates on gasoline used for purposes other than running motor vehicles on the public roads. The amount refunded was to be "two cents on each gallon of motor fuel so used." The court, reading this section in conjunction with section 5 which provided for a 3 per cent allowance for evaporation and other loss, found that it violated the due process clauses of the state and federal constitutions by paying money collected as a tax to a private individual. Thus, one might pay into the treasury $97 on 5,000 gallons of gasoline (two cents a gallon less the 3 per cent allowance) and immediately claim a rebate of $100 on the ground that he used the fuel for purposes other than operating a motor vehicle. This provision meant an appropriation of public revenue for private use.

The new statute attempts to avoid the difficulty apparent in the refund provision by indirection. The 3 per cent allowance found in the old law is present in the new law. It takes two forms: the payment of not more than 2 per cent of the tax for the costs of collection and the refund of the tax paid to any person who loses any motor fuel "upon which he has paid the amount required to be collected." But apparently section 6, by making the oil company a tax collector instead of a taxpayer, as in the old law, saves the situation. Moreover, the provision is not that the amount repaid shall be three cents a gallon, but rather that it shall be the sum which has been paid.

However, there are still some interesting problems as to how the administration is to carry out the provisions of the law and effectively avoid the practice found illegal by the courts. For instance, suppose the Standard Oil Company of Indiana refines oil in the state and sells it to a Springfield retailer. The Standard Company collects $150 on the 5,000 gallons, and remits to the department of finance $147 (the amount collected less the cost of collection). The retailer loses

[1] This provision is apparently based on the similar one in the federal aid law.

[2] Article IV, sec. 13.

by evaporation 3 per cent of the fuel, and applies to the director of finance for a refund of $4.50 alleging (and if necessary proving) that he has paid three cents a gallon, or $150, in tax to the Standard Oil Company. After the $4.50 has been refunded, the dealer may sell the gasoline to be used in cleaning clothes. The cleaner will then make application for a refund of $145.50 (three cents a gallon on the 4,850 gallons of gasoline still left). Intriguing questions arise. Is it not unduly expensive that the state should check this particular item three times (assuming that it does not verify any of the claims for refunds)? Is it legitimate that the public should refund $150 on the item when it has received only $147? Will the courts condemn the practice? Or will it be held that the Standard Oil Company is a legally conscripted state employee and that, consequently, money paid to it is an ordinary expense of conducting the business of the state?[1]

SPECIAL HIGHWAY TAX BURDEN ON ILLINOIS MOTORISTS

It is estimated that the gasoline tax would in 1928 have amounted to a net burden of $12.18 on an average motor vehicle after deducting all allowances, including those to be paid the oil companies for expenses of collection and remittance.[2] If the average motor vehicle registration tax of $10.01 in 1928 be added to this, the total will amount to $22.19. The average gasoline tax levied by the five states adjoining Illinois was $12.14 per vehicle and the average registration license $12.28, making a total of $24.42 per average vehicle in these neighboring states. That is, while Illinois would have levied a gasoline tax amounting to almost precisely the same as the taxes levied by her neighbors, had the present rate been effective in 1928, her total special vehicle tax would have been slightly less by virtue of her somewhat lower registration tax.[3]

If the situation be compared with the United States as a whole it will be seen that the average tax per vehicle for the entire country is $25.54 (gasoline tax $12.45—even though not levied at all in two or three states—and registration license $13.09) as compared with the Illinois tax of only $22.19.[4]

SUMMARY

The new three-cent gasoline tax law in Illinois offers some distinct departures from earlier legislation. It requires the administration, when satisfied as to the facts, to refund taxes on all fuel which may be lost for any reason after the tax has been paid; it authorizes dealers who collect taxes to reimburse themselves from the proceeds for expenses incurred; and it specifies in unusual detail the precise disposition which is to be made of the revenues. The unconstitutional sections of the 1927 act are eliminated;

[1] It is to be observed that the case suggested is typical. Refunds on account of evaporation will presumably be claimed in every case, thereby involving at least a double check.

[2] The Bureau of Public Roads estimates Illinois fuel consumption at 671,000,000 gallons. Dividing by the number of cars, one finds consumption per vehicle. This multiplied by the rate and reduced by the estimated total allowance (9 per cent) gives the figure in the text.

[3] It is not improbable that the municipal registration taxes levied in some Illinois cities may be sufficient to offset the difference. Some Kentucky and Missouri cities, however, also levy such local taxes.

[4] There is reason to believe that the average gasoline tax per vehicle in the United States will be somewhat more in 1929 not only because it will be levied in Illinois, Massachusetts, and New York, but also because rates have been raised in a number of states. It is unlikely that average license fees for the United States will differ materially from those of 1928.

but, instead of the provisions concerning refunds, there are substituted others which promise to prove expensive even if they do not lead to litigation. The total burden imposed on Illinois motorists as a result of the law will not be excessive as compared with that levied on those in other states.

POOR LAW REFORM IN NEW YORK STATE

BY ELSIE M. BOND

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After one hundred years' experience with a Poor Law little advanced beyond the famous law of Queen Elizabeth, New York adopts a new measure more in accord with the modern trend. :: :: :: ::

The general impression that poverty is not a serious problem in the United States is not confirmed in New York state by the report of the state comptroller. In the fiscal year of 1926–27, towns, counties and cities in New York state spent over $36,000,000 for charities. The state department of charities reports that in the same period over 67,000 people were given relief in their own homes, over 21,000 people were cared for in almshouses, and over 30,000 dependent children were cared for in institutions and family homes.

POOR LAW LITTLE CHANGED IN 100 YEARS

The expenditures of towns, counties and cities for the care of the poor have been administered under the State Poor Law, modified by some 140 special statutes relating to a particular town or county and the various city charters. The State Poor Law is a very old statute which has not been substantively revised for 100 years or more. It resembles the Elizabethan Poor Law on which it is based. As its original purpose was to prevent any municipality from being burdened by the care of able-bodied vagrants, its attitude is repressive and negative. The only provisions which might be called humane and progressive are the negative ones, forbidding the auctioning of the care of the poor and the care of children in almshouses.

The system under which poor relief is now administered is the same as that set up by the Poor Law over a hundred years ago, when each little community had to function by itself. It has all the disadvantages of our inefficient system of town and county government. Each county has an elected superintendent of the poor, who runs the county almshouse and cares for certain persons who have no residence in a town or city in its county. Each town has one or two elected overseers of the poor, who administer the care in their own town, and have the power of commitment to the county almshouse. In the Poor Law, the cities are treated as towns of the county, and have the same powers and duties as the town.

Each town and city is responsible for the administration of and payment for the care of its own poor, unless the county board of supervisors has decided that relief of poor persons under 16 or over 16 or both shall be paid for by the county. Frequently, however, the cost of this care given to a person having a settlement in the town or city is

charged back in the taxes levied on such town or city, instead of being paid for from general county funds.

The county superintendents of the poor have "general superintendence and care of the poor who may be in their respective counties" but their powers over town and city officials are very vague. The Poor Law provides that no town overseer of the poor shall spend more than ten dollars for one family without the approval of the county superintendent of the poor, unless the board of supervisors or town board has made rules to the contrary. No one knows whether this means ten dollars at one time or during a week, month or year. In one county, all relief in towns and cities is paid by the county. In another, relief lasting over 90 days is a county charge. The system in force in each county is frequently the result of custom rather than law or written regulations passed by the town board or the board of supervisors.

The Poor Law in the main is concerned with almshouse care and the question of liability of the town, city, or county for the support of a poor person. Outdoor relief, *i.e.*, care in a person's own home, is authorized only when the person "requires only temporary relief or is sick, lame or otherwise disabled so that he cannot be conveniently removed to the county almshouse." Outdoor relief is given in spite of rather than because of the law, though over $2,225,000 for over 67,000 people were spent for this purpose in the fiscal year of 1927.

THE OVERSEERS OF THE POOR

No very recent information is available as to the actual methods and standards of the work of town overseers of the poor. Contact with individual cases leads to the conclusion that the study made by the State Charities Aid Association of the work of overseers of the poor in Dutchess County in the years 1910 to 1913 gives a fair picture of the conditions prevailing throughout the state today. The report of that study gives the following conclusions:

1. The overseers, with few exceptions, lack the discrimination and experience necessary to the efficient administration of public outdoor relief.
2. Records are incomplete and carelessly kept.
3. Reports based on these records are inaccurate.
4. Investigations when made are incomplete.
5. Reinvestigations are seldom made.
6. With one possible exception, temporary, spasmodic relief administered with little relation to the real need of the family, is the accepted method of meeting all situations.
7. No attempt is made to learn of, or eliminate the causes responsible for present distress.
8. Degenerate conditions due to mental or to moral defect are perpetuated and encouraged.
9. Relief to really needy families is generally insufficient or unsuitable, and as administered encourages pauperism.
10. Very inadequate provision for medical relief of indigent sick persons is made.
11. Relief is given to families not in need of it.
12. The payment of overseers by the fee system for orders written, visits made, etc., is very objectionable and encourages an ineffective and inefficient system.

A system of town responsibility was probably necessary 100 years ago when lack of transportation and means of communication made each town an isolated community. That reason no longer exists in view of our modern system of good roads and telephones. The New York law took its system of town overseers of the poor from the English Poor Law. England has long since abolished the office as an impractical method of administration and now employs full-time officers employed by groups of parishes and in all probability will shortly make the county and large city the unit of administration. New York still clings to the system whereby

part-time, untrained, elected town overseers expend hundreds of thousands of dollars in doles either too small to do good or unnecessary. When this system was established, the relief officer's responsibility was, in the main, to decide whether or not care should be given in the almshouse. Today, with our greater knowledge of the complex causes of poverty and distress, and our increased facilities for treatment, an inexperienced official is a liability and his work inevitably tends to increase instead of prevent permanent dependency.

METHOD OF REFORM HAS BEEN TO CREATE NEW AGENCIES

In New York state the effort to secure better provision for those in need has, until recently, resulted not in reform of the Poor Law and its administration, but in the creation of new agencies to care for the groups whose special needs were brought to the attention of the public. The needs of widows with children were recognized in 1915 by the passage of the Mothers' Allowance Act, which established boards of child welfare in each county and in New York City. Other groups, such as families where the father had deserted or was in prison or permanently incapacitated and under treatment in a hospital, have been brought under the boards of child welfare, which spent over $6,500,000 for relief in the past year. Children's courts are now functioning in each county of the state, empowered to provide care for neglected children. County appropriations for the needy blind have also been provided. County care for physically handicapped children is also authorized, one half of the cost to be paid by the state. In Dutchess and Suffolk counties the boards of child welfare have, by special acts, been given responsibility for the care of all children. Under a general law the Cayuga County board of child welfare has assumed similar powers. Only Westchester County, which has, by special act, established a county department of public welfare with broad powers including practically all poor law responsibility except outdoor relief, has attempted to carry on modern and efficient work as poor relief. Its success shows that the question is one of quality of administration and that there is not necessarily a stigma attached to poor relief.

The State Charities Aid Association has been working to secure better poor relief administration since 1873, when it was responsible for the passage of the law forbidding the care of children in almshouses. Through its County Children's Committees it has been able to secure in thirty-eight counties the appointment of trained children's agents who act as assistants to the county superintendents of the poor. At present, all but eight counties of the state have some form of special service for dependent children, and the majority of counties have trained workers. While the care of dependent children separated from their families has thus been greatly improved, it has been clearly shown that the greatest opportunity for preventive work was in the towns where the untrained town overseer was responsible. The State Charities Aid Association is convinced that some method by which experienced workers will deal with the cases needing care in their own homes must be discovered if an effective administration of poor relief is to be secured. The present law, with its fixed system of town responsibility, seems to offer an impossible obstacle to any real improvement in administration.

EFFORTS TO REVISE THE POOR LAW

During the past five years active efforts for a comprehensive revision of

the Poor Law have been made. The legislature, recognizing the confusion in the general Poor Law, the 148 special statutes, and the city charters, in 1924 appointed a commissioner to digest the various bills. In 1925 the State Charities Aid Association appointed a special committee on the revision of the Poor Law, the first chairman being V. Everit Macy, former commissioner of public welfare of Westchester County, whose outstanding work in the organization of the Westchester department of public welfare is well known. Mr. Macy was later succeeded by Peter Cantline, former recorder of Newburgh, whose unusual familiarity with the Poor Law made him also exceptionally well fitted to direct the work of the committee.

The legislative commissioner submitted a compilation of laws relating to the care of the poor to the 1926 legislature, which authorized him to draft a codification and revision of these laws. The State Charities Aid Association committee worked closely with the legislative commissioner in the hope that the bill drafted by him might make the substantive changes necessary for improved poor relief administration. The commissioner's bill, introduced in the 1927 legislature, did little more than codify the existing laws, and retained much of the involved language of the present Poor Law. It made only one important change in the present system of administration, namely, the substitution of deputy commissioners of public welfare appointed by the town boards, for the elected overseers of the poor.

The State Charities Aid Association had, from its study of the subject, come to the conclusion that the fundamental weakness of the Poor Law was its division of responsibility between the fifty-seven county superintendents of the poor, the thousand or more town overseers of the poor, and the sixty city commissioners of charities, and that a concentration of responsibility was essential to more effective administration of public care of the poor. Fearing that the passage of a bill making no substantive changes would delay real revision for many years, the State Charities Aid Association committee drafted and secured the introduction of its own bill in the 1927 session. This bill proposed that the state should be divided into city and county public welfare districts, each entirely responsible for the care of its own poor. The county public welfare district was to consist of all the towns of the county and such of the cities in the county as did not constitute themselves separate city public welfare districts. The board of supervisors was to appoint a county commissioner of public welfare, who would appoint his own deputies and assistants and be responsible for the administration of the county public welfare district. The bill was simple and easily understood, modernized the phraseology, and outlined in detail the care to be given the poor and the sick. It received much favorable comment for its clarity and arrangement. The State Charities Aid Association bill was strongly supported, but the opposition to a county system of administration and an appointed county commissioner was too great to make any action by the legislature possible that year.

JOINT COMMITTEE DRAFTS A NEW BILL

The State Association of County Superintendents of the Poor and Poor Law Officials had been interested in the bill drafted by the legislative commissioner, though many of the more progressive officials saw the necessity for changes in the administrative system. At the close of the 1927 legislative session, a joint committee was formed to

consider the drafting of a new bill to be introduced in 1928. This joint committee consisted of representatives of the State Department of Charities, the legislative committee of the State Association of Poor Law Officials, and the State Charities Aid Association committee on the revision of the Poor Law. The joint committee decided that the new bill should provide a county system of administration, should abolish the overseers of the poor, but should retain an elected county official. A bill based largely on the State Charities Aid Association 1927 bill was drafted by this committee and introduced in 1928 by Senator Fearon in the senate and Mr. Shonk in the assembly.

STRONG OPPOSITION TO COUNTY SYSTEM

Opposition to a county system of administration and county responsibility for support of the poor proved so strong, especially in the assembly, that it became evident that there was no hope of passing a bill in this form. Towns which spent little or no money for poor relief were unwilling to have poor relief a county charge, fearing that their taxes would be raised. There was a strong feeling that the county administration would be expensive and that the towns would be paying part of the city relief. The bill was, therefore, amended to make the county system of administration and financing optional, the decision being left to the board of supervisors in each county. In this form the bill passed the senate without a dissenting vote but was not acted upon by the assembly.

The joint committee reluctantly came to the conclusion that the state was not yet ready for a mandatory change from a town and county system of administration to a straight county system. The 1929 bill was therefore based on the present system of town, city and county responsibility, but the county's powers were greatly increased, and any county, by action of its board of supervisors, was empowered to establish a county system of administration and financing.

THE NEW LAW SUMMARIZED

This measure passed the legislature and was signed by the governor. Its provisions may be briefly summarized as follows:

Each county is made a county public welfare district. The City of New York and four cities which operate their own almshouses, namely, Kingston, Poughkeepsie, Oswego and the City and Town of Newburgh, are constituted city public welfare districts.

The county public welfare district is to be administered by an elected county commissioner of public welfare, assisted by public welfare officers in the towns appointed by the town boards and city public welfare officials elected or appointed according to the provisions of the city charters. All cities except those constituted city public welfare districts are to be part of the county public welfare district in which they are situated. The responsibility for the care and support of the poor is divided as follows: The towns and cities are to provide and pay for home relief and medical care given in the home to persons residing and having a settlement in their territory. Cities, in addition, provide hospital care and may perform any of the duties assigned to the county if empowered to do so by a general, special or local law relating to such city. The county is to provide institutional care for adults and care for all children who are not with their families, care for defective or physically handicapped children and children born out of wedlock, and hospital care

for residents of towns. The relief paid by the county on behalf of persons who have a settlement in a town or city in the county is a county charge unless the board of supervisors directs that it be charged back in the taxes assessed on such town or city.

A change to a county system of administration is provided by empowering the board of supervisors to make all relief administered by the towns and cities a county charge, and in such case to have the county administer all such relief through its county commissioner. If a county system of administration is established, the towns no longer appoint town public welfare officers, but a city is not governed by such resolutions unless its legislative body confirms it. The powers of the cities under their charters and the City Home Rule Law are scrupulously respected.

Settlement is gained by one year's residence without receipt of certain forms of public relief, and the place of a person's settlement is responsible for his relief and care until the person has gained another settlement elsewhere or has been away from the state for one year. This provision will simplify the question of liability for support, which is very complicated under the present law.

The law outlines the powers and duties of the public welfare officials of a town, city and county, and describes the care to be given to various types of cases in somewhat great detail. The purpose is to provide a law which will serve as a manual for the officials and instruct them in their duties.

The new Public Welfare Law is outstanding in its statement of the social objectives of public relief. It establishes public responsibility not only for relief but also for service. Its purpose is adequate relief of distress and prevention of dependency. Owing to the fact that any proposal to reform town and city government is exceedingly controversial, the administrative system established by the new law is, to a certain extent, a compromise. Nevertheless, the new law establishes a much better administrative system than the Poor Law. It places less power and responsibility in the towns and more in the counties. It brings the cities into a county system as far as is possible without interfering with their powers under their charters and the City Home Rule Law. By making possible a change to a complete system of county administration, by action of the board of supervisors, the way for progress is open without additional legislation just as soon as any county can be brought to see the wisdom of such action. It is probably as radical a change as can be secured until the whole system of town and county government is reorganized.

PERMANENT REGISTRATION FOR VOTING IN GERMAN CITIES

BY ROGER H. WELLS
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While the characteristically thorough system of permanent registration in German cities is not applicable in toto to the United States, it contains many good features worthy of consideration by American municipalities. :: :: :: :: :: :: :: :: :: ::

THE growth of non-voting in the United States is, to a considerable degree, a reaction against the many burdens placed upon the electorate. Not least among these burdens is the requirement of periodic registration, especially in the larger American cities like New York, Chicago, and Philadelphia. Such a system of periodic enrollment is inconvenient to the voter, is expensive to operate, and is by no means fraud-proof—unless, as in Nicaragua, it is administered by United States marines on the basis of mercurochromed thumbs! Because of these objections, much attention has recently been devoted to the installation of new and improved types of permanent registration. The practicability of these newer types has been conclusively demonstrated by the successful results achieved in Boston, Milwaukee, Omaha, and other American cities.[1]

GENERAL ORGANIZATION

In this connection, a brief summary of the experience of German cities with permanent registration of voters may be of interest. No German may vote unless his name is duly entered in the official register of voters, or unless he establishes his right to vote by a *Wahlschein*, the nature of which will be explained later. The basis of the voters' register is the police registration system or *Meldewesen*, a truly German device whereby all persons in the community are obliged to report their arrival, departure, or change of residence within the community to the police. These reports or *Meldungen* are made out on prescribed forms usually in duplicate or triplicate; and, because of the mass of information demanded, are nothing less than brief autobiographies. The data thus secured are copied by police officials upon individual record cards which constitute a permanent file available for fiscal, educational, electoral, postal, and other purposes.

Each city has a *Wahlamt*, or election office, charged with various duties relating to the preparation of voters' registers and to the conduct of elections. In some instances, this is a division of the statistical office, in others a separate establishment, and in still other municipalities, it is combined with the police *Meldeamt*. But however organized, the election officials and the police registration officials closely coöperate. Ordinarily, the police record cards themselves are not

[1] See Joseph P. Harris, "Permanent Registration of Voters," *American Political Science Review*, xxii (May, 1928), pp. 349–353; and "A Model Registration System" (Report of the Committee on Election Administration of the National Municipal League), NATIONAL MUNICIPAL REVIEW, xvi (Supplement, Jan., 1927), pp. 45–86.

directly used for electoral purposes, first, because of the alphabetical arrangement which is followed, and secondly, because the files include the names of minors, foreigners, and others not qualified to vote. Accordingly, it is necessary to have separate card files for voters, sometimes arranged alphabetically but preferably grouped by streets within a voting precinct, and within a given street according to houses. These files are kept continually up to date from information supplied by the police *Meldungen*, reports of deaths and marriages, etc.

THE CARD FILES

When an election draws near, the first step is the preparation of precinct lists or files of voters. According to the older method of *Wählerlisten* which is still widely used, the lists are typed or copied in longhand from the permanent card files, the names again being arranged by streets and houses. Because of the time and expense involved in making such lists, two new and improved methods have been introduced since the war. The first is that of precinct card files (*Wahlkartei*); the second is that of precinct lists of voters prepared by means of an addressograph.

The system followed in Potsdam may be described as typical of the first method. The individual cards are about six inches by four inches in size, light blue cards being used for women and white cards for men. Upon the face of the card, spaces are provided for the voter's name, date of birth, occupation, date at which residence in Potsdam began, place of residence with additional lines where changes of residence may be entered, ground for disqualification from voting if any should arise, and spaces for twelve elections. The other side of the card is printed in exactly the same way, so that by reversing it, the same card may be used in twenty-four different elections. The election spaces are numbered consecutively, the election office designating the particular space for a given election. During the time between elections, the cards are kept in wooden boxes in filing cases at a central office where they may be used for other than electoral purposes. The whole arrangement very much resembles that of a library card catalog. On election day prior to the opening of the polls, the wooden boxes containing the cards for each precinct together with the ballots, ballot envelopes, and other necessary materials, are delivered to the precinct election officials.

At this point, the American reader will ask what precautions are taken to prevent the cards from being tampered with or removed from the boxes. The safeguards are twofold. In the first place, the cards are carefully checked and corrected before each election (of which more later) and are then consecutively numbered within each precinct in the space provided beneath the number of the election. The removal or the insertion of cards would thus break the numerical sequence. In the second place, each card is perforated at the side, and the cards are fastened in the boxes by passing a metal rod through the perforations and then locking or sealing the rod so that it cannot be removed without breaking the seal. As a matter of fact, the election laws now generally require precautions of this sort for cities using *Wahlkarteien*. Some of the earlier card files were defective in that the cards were not fastened and locked in the boxes. One interesting feature found in Potsdam and elsewhere is that the boxes are constructed in such a way that the sides may be let down. When a voter's ballot is cast, his card is stamped or marked in the appropri-

ate space so as to have a permanent record of the fact that he voted. It is then turned over in the file and is thus separated from the cards of those who have not yet voted. This procedure makes repeating more difficult and also aids the counting of the cards of those who have voted after the polls have closed. The number of cards turned over plus the number of *Wahlscheine* used should equal the number of ballots cast.

ADVANTAGES AND DISADVANTAGES OF CARD FILES

The Potsdam system obviously has advantages. Less time is required to get ready for an election than in those cities where the voters' lists are typed or written out in longhand. Thus in Leipzig, it takes eight days to write out the voters' lists and then the lists may have to be re-checked for errors in copying. Where old lists from previous elections are used, these are even less satisfactory. It is harder for the precinct election clerks to use old lists where names have been crossed off and new names added at the end in the form of supplements. But the precinct card file of registered voters may be kept continuously up to date. It is a simple matter for the election office to change, remove, or add cards as the occasion demands. Nevertheless, the system of having only one register of voters, the boxes of which are distributed among the precincts, has certain defects. On election day, the central election office is without any record of the voters and hence is not able to answer inquiries which may arise. Moreover, if the voters' card files are regularly consulted by other city departments, the work of these departments is hindered during the preparation for and conduct of an election. These objections could be removed by having two complete registers, one for the central election office and the other for distribution among the voting precincts. This, however, would involve extra initial and operating expenses. Hence, because of these difficulties, a few cities (*e.g.*, some of the Berlin boroughs, and in particular, Nuremberg, which until recently had the Potsdam system) have now introduced a new plan, that of precinct lists of voters prepared by means of an addressograph.

ADDRESSOGRAPH LISTS

In Nuremberg[1] the permanent register of voters is kept at all times in the central election office. The record of each voter, however, is not in the form of a pasteboard card as in Potsdam but consists of a small metal plate of zinc. The plates are filed in wooden boxes, each box containing two hundred plates. The boxes in turn are kept in rows of double steel cases with work tables in between the rows. By means of a stamping machine, each metal plate is stamped with all the information usually found on the ordinary voter's card. Where change of address or other alteration occurs, the plate in question is simply re-stamped, thereby obliterating the old address and inserting the new one in the same place. It has been found that plates may be restamped four or five times without making the type or print illegible. The cost would be much greater if a new plate had to be made for each alteration. The files of plates are used by various city departments in exactly

[1]For a good description of the Nuremberg plan, see Maximilian Meyer, "Die Verwendung von Adressieranlagen für Wahlkarteien" (The Use of Addressographs in the Preparation of Voters' Registers), *Zeitschrift für Kommunalwirtschaft*, xix (April 10, 1929), pp. 393–396. See also the pictures and descriptions of the plates and addressographs in *ibid.*, xvii (Sept. 25, 1927), pp. 1515–1519.

the same way as the card files. Little or no difficulty has been experienced in reading the plates, especially when the top surface is painted white.

Just before an election, the plates are run through a printing machine or addressograph and thus lists of voters for each precinct are prepared. The addressograph is equipped in such a way that it will print only from the plates of those who are qualified to vote at the election in question. For example, a person may be qualified to vote in a *Reichstag* election but not in a city council election on account of not having resided within the community a sufficient length of time. Hence in preparing lists for a city election, the machine may be set so that it will print only those plates which are marked "municipal qualified voter." In the same way, separate lists of men and women voters may be made. Since the addressograph is employed only in getting ready for an election, it may be used by other city departments in the period between elections. The total cost of installing the new system in Nuremberg, including all equipment and 300,000 metal plates, was about $17,550. Because of this expense, the system is best suited to large cities.

The principal forms of voters' records in Germany have now been described. It remains to speak of various other details of registration. It might be supposed that the registers are so well kept that no special scrutiny would need to be made just prior to an election. Nevertheless, the laws everywhere insist upon certain safeguards designed to insure the accuracy and completeness of the records. Thus the voters' lists or cards are required to be thrown open to public inspection for a period varying from eight to fourteen days. Within this time, any person may file written objections against any errors or omissions in the register. If an objection is filed, the central election office decides the case subject to appeal to the *Bürgermeister*, *Magistrat*, or similar city authority. After the period of public inspection is ended and the register is closed, no further changes may be made except those resulting from decisions on objections already filed.

ELECTION POST CARDS

A very effective check on the register is found in the use of election post cards (*Wahlpostkarten*). These are mailed out early in the inspection period to all voters entered on the register. The form used is substantially as follows:

> Mr. Karl Schmidt, 10 Blank St. You are registered as No. 250 in the voters' register for the city council election on (date). Your polling place is (address). Please bring this card with you to the polls.

The election post card not only serves as a means of identification at the polls but it also enables the election office to make a careful check of the register. Thus, where a card is returned undelivered by the post office, the name of the voter in question will be stricken off. The election office also publicly advertises that eligible voters who have not received post cards should immediately file a claim with the election office before the period for public inspection expires. This notice is especially directed to young persons who have just reached the voting age, and to those who have recently changed their addresses.

Of special interest in this connection is the way in which Munich and other cities combine the use of election post cards with a complete self-census of the voters. In Munich, about six weeks before an election, printed cards and instructions are delivered by the police to the owner or manager of each house within the city. The owner or mana-

ger in turn then distributes the cards among the qualified voters residing within his house, and instructs them to fill out the cards in ink and return them to him before a specified date. Where persons are out of town or are unable to fill out their own cards, it may be done for them. The house manager checks each card, places the cards in an official returning envelope, signs, and seals it, certifying on the back thereof the names of those who were given cards but failed to return them. The envelopes are thereupon collected by the police and delivered to the central election office. Each card consists of three parts separated by perforations, all three of which must be filled out by the voter. The central office checks the voter's self-made record with its own records and arranges the cards prepared by the voters according to voting precincts. The cards are then consecutively numbered and the number of the voting precinct is also indicated. Each part of the card has the voter's number and the precinct number entered upon it. Next, the three parts of the cards are detached from each other, two of the parts which are exactly alike being put into voters' registers. In effect, the voter makes out one registry card for the card file in the polling booth and another registry card for the duplicate file in the central office. The third part of the original card filled out by the voter is the post card which, when officially endorsed with the voter's number and precinct, is mailed back to him to show that he is duly registered and to serve as his means of identification at the polls. The post card is not valid as a token of identification unless it bears the official endorsement of the election office. Such was the system used in Munich for the *Reichstag*, state, and provincial elections of May 20, 1928. It should be added that such an elaborate check-up is not necessarily made before every election. The card files thus prepared in Munich have spaces for six different elections.

FLEXIBLE PROVISIONS

One final point deserves consideration. As has already been pointed out, no German may vote unless he is regularly registered or unless he has an electoral certificate (*Wahlschein*). The general purpose of a *Wahlschein* is either to permit a registered citizen to vote in some place other than that in which he is registered, or to allow an unregistered citizen to vote in the precinct in which he should have been registered. According to the *Reichswahlgesetz* (Art. 12), a registered voter may claim a *Wahlschein:* (1) if he of necessity must be absent from his home city on election day; thus, a traveling man residing in Berlin but in Cologne at the time of a *Reichstag* election might vote in Cologne upon the presentation of a *Wahlschein;* likewise, *Wahlscheine* may be used by sailors in voting in their home port a certain number of days before or after an election: (2) if he moves to another precinct or city after the closing of the voters' register: (3) if, in case of sickness or physical infirmity, he finds that some other polling place is easier to go to than his own. This polling place may be in the health resort at which the voter is temporarily staying. Or, if he is in a local hospital on election day, he may receive a *Wahlschein* so that he can vote in the hospital itself. The cases in which a non-registered voter may receive a *Wahlschein* are less numerous. If a person through no fault of his own, has failed within the specified time to protest against the omission of his name from the register, he may still be given a *Wahlschein*. Thus in local elections for which a residence qualification exists, a person

may not have completed the residence requirement when the register was closed but may have completed the requirement before election day. In such cases, he may request a *Wahlschein*. Moreover, soldiers may not vote while in the military service. But if a soldier is discharged to civilian life and it is too late to register him for an approaching election, he may receive an electoral certificate. It should be noted that the issuance of *Wahlscheine* by local election offices is surrounded by various precautions designed to prevent abuses. As a rule, the number of *Wahlscheine* issued is very small in comparison with the total number of votes cast.

HOW THE SYSTEM WORKS

The main features of registration for voting in German cities have now been sketched. Viewing registration methods as a whole, certain conclusions stand out. In general, registration is not inconvenient to the voter although Americans would probably regard the requirement of police registration as unduly burdensome. Moreover, the public expense involved in registration is small although here it is impossible to make any adequate comparison with American conditions. In Pforzheim (population in 1925, 78,859), the average cost of an election, including registration, amounts to approximately $2,400, or about five cents per registered voter. Within this sum is comprised the cost of printing and mailing the election post cards and also the expense of preparing voters' lists for the political parties.[1] Other cities, such as Leipzig, Magdeburg, Chemnitz, Nuremberg, and Potsdam, show similar low costs per registered voter. As to registration frauds and abuses, these rarely occur in Germany. In the city of Hörde (population in 1925, 34,575), the city council election of May, 1924, was invalidated because dead men and voters who were out of town on election day were voted in true American fashion.[2] In another instance, a precinct election board stuffed the ballot box.[3] There may have been a small number of similar frauds in other cities but these were the only cases which came to the writer's attention during an extensive examination of the files of newspapers, municipal journals, and reports.

On the whole, then, German registration methods meet the tests of a good registration system. It is not proposed that the German plan be adopted *in toto* in the United States, but there are many good features now used in German cities which might well be applied in American municipalities.

[1] Pforzheim, *Verwaltungsbericht für das Rechnungsjahr 1925*, pp. 34–35.

[2] *Kommunale Umschau*, i (Feb., 1925), p. 13.

[3] *Vossische Zeitung*, morning ed., Feb. 25, 1928, note on the Neuruppen case.

REGIONAL VARIATION IN MUNICIPAL BORROWING RATES

BY EARL L. MOSER
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Every one knows that western municipalities pay higher interest rates on borrowed money than eastern cities. The purpose of this article is to show how great is the difference and why it occurs. :: :: ::

It is commonly assumed that western cities are forced to sell their bonds on a higher yield basis than eastern cities. Little study has been made of the accuracy of the assumption in spite of the fact that definite knowledge on this question would be of interest and value to city official, banker, and bond buyer.

In an attempt to answer the question of how great a differential exists between the borrowing rates for cities in various parts of the country the writer has collected data on 815 bond issues sold during the years 1926 and 1927 by cities in the states of Massachusetts, New York, Illinois, Iowa, California, Oregon, and Washington. The 800 issues include all bonds sold by municipalities in the states mentioned, about which sufficient data were available to obtain the yield to maturity. The source was the state and city section of the *Commercial and Financial Chronicle*. The states named above were chosen at random before the study was begun, as being fairly typical of the eastern, middle western, and far western sections of our country.

It is well to bear in mind that the study is to make comparison between different regions of the country, and not between individual cities. A possible course of procedure would have been to average the rates for all cities within each region and make comparison of results. The fault with this method of procedure is that the east has more large cities than the west and, apart from regional differences, large cities enjoy a lower borrowing rate than small cities. In order to eliminate this difficulty all cities were placed in three size groups, the rates for cities within each group were averaged, and regional comparison made on the basis of the size groups. The size groups[1] chosen were:

1. Cities below 5,000 population.
2. Cities between 5,000 and 30,000 population.
3. Cities above 30,000 population.

The results of the study are presented in Table I below.

[1] Based on 1920 census.

TABLE I

AVERAGE BORROWING RATE FOR CITIES OF VARIOUS STATES

	1926			1927		
	Below 5,000	5,000 to 30,000	Above 30,000	Below 5,000	5,000 to 30,000	Above 30,000
Oregon and Washington	5.22	5.41	5.12	5.18	4.99	4.27
California	4.72	4.56	4.47	4.41	4.373	4.36
Oregon, Washington and California	5.00	5.15	4.77	4.71	4.80	4.34
Iowa and Illinois	4.69	4.69	4.33	4.59	4.57	4.03
New York and Massachusetts	4.40	4.33	4.12	4.14	3.97	3.93

A glance at the table is sufficient to make apparent some interesting and significant facts.

THE BORROWING RATE INCREASES AS ONE MOVES WESTWARD

It is to be noted that in every case, *i.e.*, for each size group and for each of the two years, the rate is lowest for the eastern group, followed in order by the middle west and finally by the Pacific northwest. That the same sequence holds for each of the size groups and for each of the years is significant in pointing very definitely to a higher borrowing rate as one moves west. The possible exception to this principle, as shown in our present study, is California. Evidently California rates are more nearly equal to mid-western rates than to those of the Pacific northwest. An attempt will be made later to explain why the California rates are lower than other far western rates.

AMOUNT OF DIFFERENTIAL IN RATES

Of course, the reader can make what ever comparisons of rates he desires It may be well, however, to point out the amounts of certain differences. Let us first make comparison of rates found for the middle western states with those of the eastern states. The table below shows in each case how much higher is the middle western rate than the eastern.

Perhaps the reader should be warned not to take these differences as final and absolute. In the first place, only two states have been chosen as representative of each region. These states, Iowa and Illinois, to represent the middle west and New York and Massachusetts to represent the east, are only samples, but, it is believed, good samples of their respective regions. In the second place, the amounts of the differences would undoubtedly be changed if the cities were placed in different size groups. Finally, the exact differences of 1926 and 1927 might not be the same for other years. With these warnings in mind one may safely say that the cities of Illinois and Iowa pay from .25 per cent to .50 per cent more for their funds than do the cities of New York and Massachusetts.

Tables III and IV are self-explanatory.

From Tables III and IV might be drawn the following general conclusions which, however, must be subject to the limitations previously mentioned — cities in the Pacific northwest pay from .75 per cent to 1 per cent more for their borrowed funds than cities in the east, and from .25 per cent to .75 per cent more than cities in the middle west.

WHY DIFFERENCES EXIST

The question of why these regional differences exist is difficult of definite and conclusive answer. Perhaps the best explanation is the well-known economic law that capital is not absolutely liquid, *i.e.*, there is resistance to the free flow of funds from one place to another, and this resistance increases

TABLE II

AMOUNT BY WHICH MIDDLE WESTERN RATE EXCEEDS EASTERN RATE

	Cities below 5,000	Cities between 5,000 and 30,000	Cities above 30,000
1926	.29	.36	.21
1927	.45	.60	.10

TABLE III

AMOUNT BY WHICH PACIFIC NORTHWEST RATE EXCEEDS EASTERN RATE

	Cities below 5,000	Cities between 5,000 and 30,000	Cities above 30,000
1926	.82	1.08	1.00
1927	1.04	1.02	.34

TABLE IV

AMOUNT BY WHICH PACIFIC NORTHWEST RATE EXCEEDS MIDDLE WESTERN RATE

	Cities below 5,000	Cities between 5,000 and 30,000	Cities above 30,000
1926	.53	.72	.89
1927	.59	.42	.24

as the distance between place of supply and place of demand increases. The greatest supply of funds for investment is in the east. Investors in the east hesitate to send their money to distant and comparatively unfamiliar places. The far west is both distant and unfamiliar. California rates are lower than those of Oregon and Washington partly because San Francisco and Los Angeles in themselves are centers of investable funds. In addition, it is ventured, California is better known in the east than the states immediately north of her.

Another reason may be presented to explain the higher western rate. In the mind of the investor new communities have somewhat less stability than those long established. The latter have met the test of time; their industries have proven ability to survive and pay the taxes necessary to carry a debt burden. The investor, consciously or unconsciously reasons, "the newer the city or community the greater are the chances that debts will outreach tax paying power." Of course, the west is newer than the east.

Of these two reasons the writer is inclined to give greater credence to the former. Borrowing rates are higher in the west because capital is afraid of the distant and the unfamiliar. If this is true, it behooves the investor to investigate the actual risks of western city bonds. He may find that an Oregon city bond with a 5½ per cent yield may be fully as safe as an eastern bond yielding but 4½ per cent.

THE MUNICIPAL ASSEMBLY—NEW YORK'S HOME RULE LEGISLATURE

BY RUSSELL FORBES

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The municipal assembly has failed to seize the opportunity afforded it by the new home rule powers possessed by cities in New York state.

The municipal assembly of New York City is a two-chambered legislature, composed of the board of estimate and apportionment as the upper house and the board of aldermen as the lower house.[1] Its sole function is to enact local laws which amend the city charter. It is the agency through which the city exercises its home rule powers granted by the Home Rule Law of 1924.

Both the board of estimate and apportionment and the board of aldermen have a dual personality. The board of estimate convenes weekly as the upper branch of the municipal assembly, considers the items on its calendar, adjourns, and immediately thereafter convenes for the consideration of the multitudinous matters which come before it as the central fiscal and administrative body of the city. Likewise, the board of aldermen convenes, transacts business, and adjourns each Tuesday as the lower branch of the municipal assembly, and thereupon meets for the consideration of regulatory and administrative ordinances and the discharge of its other regular functions. When acting as a branch of the municipal assembly, each board has the same personnel as when it fills its regular rôle. The only exception in voting procedure is that the president of the board of aldermen and the borough presidents, who vote as members of the board of estimate branch, have no vote when the aldermanic branch considers the same law to change the city charter.

Before passage by either branch of the municipal assembly, a local law is subjected to a public hearing. Such hearings before the board of estimate and apportionment frequently give rise to voluble and heated remarks pro and con by interested individuals and groups. In the board of aldermen the public hearing is a farce. The meetings of the board of aldermen have long since degenerated into mechanical, dry-as-dust routine. After passage by both branches of the municipal assembly, local laws must be signed by the mayor and filed with the secretary of state before taking effect.

In certain cases, the action of the municipal assembly in changing the charter is contingent upon approval of the city electorate. Any local law which changes the provisions relative to special assessments, the issuance of bonds, the administration of the pension funds, and other fiscal matters, must be submitted to referendum upon presentation of a petition signed by 15 per cent of the qualified voters. In the absence of such petition, local laws changing the fiscal procedure take effect without popular approval. Up

[1] For a discussion of the New York board of aldermen see McGoldrick, National Municipal Review, vol. XIV, p. 360, and for the board of estimate and apportionment see supplement by same author, National Municipal Review, vol. XVIII, p. 125.

to this time, no petition for referendum has been presented, for nearly 200,000 signatures would be required.

In certain other cases, local laws must be subjected to referendum without submission of petition. For example, a referendum is required if the law abolishes an elective office, or curtails the duties of an elective officer; if it creates a new elective office; changes the procedure of leasing city property; affects the administration of public utility franchises; or provides an entirely new charter. To date, one local law has been submitted to the voters for approval. This occurred in 1927 when the voters approved local law No. 12, permitting the city to lease for housing purposes land taken in excess condemnation proceedings. This law, the Walker-Heckscher plan for slum clearance, has as yet accomplished nothing.

EXPECTATIONS NOT FULFILLED

The adoption of home rule and the creation of the municipal assembly in 1924 was hailed as the dawning of a new era in municipal government in New York City. With the removal of the yoke of Republican domination at Albany, the city administration was presented with the long-sought opportunity of simplifying governmental procedure, abolishing superfluous offices, and creating new administrative departments, all of which were greatly needed to produce economy and efficiency in municipal administration.

Has the municipal assembly measured up to its opportunity? Has it accomplished what was expected of it? It is quite generally agreed that it has not. In the five years of its existence, the municipal assembly has enacted seventy-four local laws. The vast majority of these laws have been of trifling consequence, and closely resemble the typical special law formerly passed by the state legislature at Albany. A great deal of the work of the municipal assembly has been concerned with such subjects as the creation of additional offices, increases in salaries, and changes in the pension allowances of civil servants. Perhaps the two most important local laws have been the reorganization of a part of the finance department and the creation of the department of hospitals.

Local law no. 16, passed in 1926, consolidated the bureaus of the finance department which collected revenue, taxes, and assessments, when due and in arrears. This change not only simplified and reduced the cost of administration of the finance department, but has proved a great boon to the taxpayer, who can now pay all his financial obligations to the city at one office instead of traveling from place to place and standing in line in each as he formerly was compelled to do.

On February 1 of this year the department of hospitals, created by local law no. 9 of 1928, took over the administration of the twenty-seven municipal hospitals formerly distributed among and supervised by the department of health, the department of public welfare, and the trustees of Bellevue and allied hospitals. The department of hospitals is faced with a great opportunity. If it fulfills expectations, it will bring about a scientific and uniform administration of our municipal hospital system and achieve incalculable benefits for the city's poor and infirm.[1]

Another local law of great moment (Local law no. 13, 1929) is now awaiting action by the voters. On April 4, Mayor Walker introduced a bill to create a department of sanitation. It is proposed to give the de-

[1] See article by Dr. McCombs, "Consolidation of New York City Hospitals," NATIONAL MUNICIPAL REVIEW, July, 1929, pp. 451–3.

partment of sanitation full jurisdiction over the cleaning of streets, and the removal of ashes, garbage and snow, which is now in charge of the department of street cleaning for the Boroughs of Manhattan, Brooklyn, and Bronx, and in charge of the borough presidents of Queens and Richmond. The department of sanitation would also be given authority to erect and maintain incinerators for the disposition of such waste materials. Most important of all, it would have charge of sewage disposal, which is now supervised by the president of each of the five boroughs. This highly meritorious proposal, needless to say, met with stubborn opposition from the borough presidents. Since it curtails the functions of the borough presidents, who are elective officers, this proposed local law must be submitted to referendum vote to become effective.

POLITICAL ALIBIS DIE HARD

When home rule was an issue in New York state, it was argued that New York City could and would administer its own affairs and shape its own government without interference from the up-state Republican majority in the legislature. But it is not unfair to state that our city administration now feels the lack of Republican interference, which hitherto served as a good campaign excuse for its own shortcomings.

Each year witnesses a steady procession of our city officials to Albany, urging the passage of special laws introduced at their behest to change the charter of New York. Even the shortest memory will recall that the Walker administration was well represented at the 1929 session of our state legislature, lobbying and pleading in committee hearings for the passage of laws to create the department of sanitation and the city planning board for New York City. It seems well established that both laws were assured of passage; but at the last moment their sponsors walked out and failed miserably to promote their enactment. Immediately upon the adjournment of the legislature, the Walker administration issued a statement, laying full blame at the feet of the Republicans and promising to let the voters know in the forthcoming campaign of the iniquity of their political opponents. Both of these important measures could have been enacted by the municipal assembly without reference to the state legislature. One, the proposal to create the department of sanitation, had already been introduced. Since the legislature adjourned such a measure, as noted above, has been passed by the municipal assembly. No action has yet been taken to create a city planning board by local law. In all fairness, can we not conclude that our city administration is playing the time-honored political game of "passing the buck to Albany" as a camouflage for local inertia?

RECENT BOOKS REVIEWED

THE NATIONAL CIVIL SERVICE REFORM LEAGUE: HISTORY, ACTIVITIES AND PROBLEMS. By Frank Mann Stewart, Ph.D. Austin, Texas: University of Texas, 1929. 303 pp.

Not since Dorman B. Eaton's great work on the Civil Service in Great Britain, published just half a century ago, has the merit system received such a thorough and accurate treatment and such sane and logical consideration as in this book. True, the work is not a history of the competitive system itself but of the National Civil Service Reform League, but so closely have the activities of this League been interwoven with the whole movement at every step of its progress that Mr. Stewart's treatise becomes also in effect an exhaustive account of civil service reform in the United States up to March, 1928, the date at which this study was written, and it is the best and completest we have ever had.

The National League is fortunate in having for its historian a man of painstaking and accurate scholarship with a thoroughly trained mind. There is nothing slipshod about the book. The amount of labor required to compile the facts, as shown by the footnote citations of the work, as well as by the bibliography appended, must have been enormous. It is a really scientific treatise. The subjects discussed are logically classified, with a summary at the end of each chapter.

It is astonishing for one who has been in the thick of the fight almost from its beginning to see how truthfully every phase in the struggle has been described by an outsider and how the important and essential facts have been set forth in their proper perspective. There are occasional repetitions but these are inserted to make more clear the continuity of the theme. To those interested in the merit system the book is most absorbing. The author gives us a brief account first of the development and character of the spoils system and next of the early efforts at reform; of the organization of the League in 1881 and the enactment of the Civil Service Act of 1883, and then a history of the League under seven Presidents, from Cleveland to Wilson (1885–1913). He next considers its methods—its propaganda, the extensions of the classified service, and its defense against the attacks on the system by spoilsmen—including many investigations of abuses; following this he discusses the new questions of personnel administration which have arisen mainly since 1913 (the date of Wilson's accession to the presidency), and then some questions of internal organization, finance and program; finally there is a summary and conclusion of the whole. The book is written in a clear and lucid style, is well printed and the proofreading has been carefully done. In its way the work is a masterpiece. Everyone interested in the merit system ought to read it through. There is no space here for more than a few extracts. Regarding a proposal to repeal the civil service law and substitute an act for so-called scientific employment the author says:

> Congress, which "is still the well-spring of patronage and the fortress of what is left of the spoils system" cannot be trusted to repeal the act of 1883 and provide a sounder act in its place. That is the present attitude of the League on the proposal to substitute a new Employment Act for the historic Pendleton Law (p. 216).

The following summary is added on this subject:

> When the spoils evil has been entirely eliminated from American politics the League can afford to abandon its traditional aims and methods and to turn its entire attention to the scientific development of personnel administration. But until that time arrives, and it has not yet arrived, it cannot afford to neglect the old fight against the spoilsmen. That work is no less important today than it was in the days of Eaton, Curtis, and Schurz (p. 227).

The concluding chapter of the book, reviewing the entire field, contains the following:

> In educating public opinion, in extending the merit system and in defending it against all attacks, we see the League at its best. These activities are the primary ones. There is constant need for an agency to enlighten the public, to fight aggressively for the expansion of the rules and to protect what has been won. In these respects the work of the League has been admirable. Here it is upon firm ground, carrying out the original purpose of its founders. In the field of personnel administration the contributions of the League have not been so significant. . . . (p. 257).
>
> We are not yet ready to discard the aims and the methods of the pioneer civil service reformers. The fight against the spoils system, the extension of the merit system into new territory and the protection of all that has been won from the

spoilsmen, are as important today as they ever were. It is futile to try to install scientific system of personnel administration unless the spoilsmen are driven out and the system is guarded against their return. . . . (p. 261).

WILLIAM DUDLEY FOULKE.

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COMPREHENSIVE CITY PLAN. By John Nolen. Roanoke, Va., 1928.

On June 10, 1929, Roanoke, by a resolution of acceptance by its city council, joined the growing list of cities which have in one form or another adopted a city plan. Whether the council's immediate reference of the entire plan to a new citizens' advisory committee will result in wide accomplishment or in stalling and pigeonholing, as has happened in some cities, depends entirely on the citizens. No city plan can carry itself out.

Roanoke has the distinction of having had two plans, and by the same expert, in the brief history of modern American city planning. The recommendations of the report of twenty-one years ago, "Remodeling Roanoke," prepared for the women's clubs, are reviewed in the present document, prepared for an official commission. Some of the earlier proposals are found to be now too expensive, but "many other proposals are still possible." Evidently few or none were at that early date carried out.

The report deals at length with those aspects of the physical city now most in the public eye and subject to municipal action: thoroughfare system in considerable detail including parking problems, airport, civic building groups, grade crossing elimination, park and recreation systems, school sites, zoning, appointment of a finance commission and a civic art commission, and several problems of special local importance such as stadium, high school athletic field, fair grounds and the improvement of stream courses. With its 76 large pages including 72 photographs and colored insert maps, it leaves Roanoke little excuse for not actually ordering its future along far-seeing lines.

ARTHUR C. COMEY.

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THE NEIGHBORHOOD UNIT. By Clarence Arthur Perry. Volume VII, Regional New York and Its Environs, Monograph I. New York, 1929.

At a time when we are being reminded on every hand, by printed word and hard fact as well, that mere city planning or town planning is on too small a scale; that we must meet the problems of a supermobile and distance-disregarding people by planning for ever larger units—the region, the state, the nation—it is healthful to be reminded that, on the other hand, it takes many a mickle to make a muckle.

Drive they ever so far of a Sunday afternoon, toil they ever so far from where they sleep, urban folk still are grouped in families and families live in houses that they regard as homes, and homes are set in neighborhoods.

Clarence Arthur Perry, by his writing and his counsel, has had a great influence in shaping the life of many neighborhood communities. In this monograph he brings together the fruit of his experience, his observation and his reflection to lift into greater significance the problem of the local neighborhood.

He sees the city, or the region, as a group of neighborhood cells, and for the healthier life of the whole he would have us pay more attention to the well-being of the cells, which, being multiplied, make the whole.

Any large metropolitan area has three kinds of communities. First, there is the metropolitan region embracing many municipalities, a sort of family of communities; second, the city, county or village community; and third, the neighborhood community. Only the second of these has any political framework, although the first and the third have an important influence on the political life and development. The neighborhood unit, more vaguely defined than either of the other kinds of communities, often has greater unity and coherence, and is of fundamental importance to society.

That such a neighborhood should have a plan is demonstrated by example, both of the "horrible" type where there is failure to provide the necessary conveniences and amenities, and by more hopeful instances of what has been accomplished in many residential communities.

That the schoolhouse should be the center of the neighborhood, that it should be bounded by main traffic arteries but not traversed by them, that it should provide its own local centers for shopping and service, that it should have its own open spaces for play and for beauty, and that it should have a color and tone all its own—these things are brought home to the man or woman who reads this monograph from the point of view of a citizen. For the planner, the administrator, the social scientist, there is such a wealth of material in text, in graph and in illustration as to make the publication quite indispensable.

More than is the case in most books about planning for places for people to live in, this book keeps always the people and their lives first and the places they live in second—a humanness that makes it better to read and not one whit less valuable as a guide for the pencil of the planner.

Mr. Perry in this work has done a great service and has added another justification to the efforts of the Russell Sage Foundation to illumine the whole vast and intricately complex problem of regional planning.

Louis Brownlow.

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County Management. By Wylie Kilpatrick. University Station, Virginia, 1929. 46 pp.

Mr. Kilpatrick's pamphlet on county management constitutes without question the most noteworthy contemporary contribution to the growing body of literature on this subject. The study is largely objective; in this respect it is decidedly superior to the majority of the previous works in the field, which have been almost wholly *a priori* or argument by analogy, both of which methods are, at best, unscientific.

Mr. Kilpatrick finds, upon investigation of "developing patterns of county government" in Virginia and North Carolina, that county manager plans fall into four general groups: the limited manager plan, the financial clerk or auditor plan, the directing engineer plan, and the system utilizing the popularly elected executive with an appointive auditor. While the survey legitimately is limited to North Carolina and Virginia, its value might have been enhanced by a consideration of the New Jersey supervisor, the Arkansas county judge, the Tennessee and Alabama probate judges, and the Georgia optional manager plan, as well as the Los Angeles, Denver, Cook, and Pittsburgh county systems. The author believes that the idea of coördination and coöperation underlying the manager plan is sound, but indicates that the objects may best be secured by coöperation of a voluntary character and by technical improvement without actual concentration of power in the hands of a single chief executive.

The third, and concluding, section of the pamphlet is partially *obiter*, and contains a number of rather sweeping generalizations. It is asserted that the manager plan is applicable only to organizations in the "handicraft" stage of development, and that the single manager idea is now obsolete in both private and public administration (p. 43). From these propositions the reviewer dissents. He finds inacceptable also the statement that "if the county is properly officered with directors of services . . . (the manager) becomes a superfluous supernumerary" (p. 46).

It seems, then, that the last word on county management remains unwritten. Dr. Porter probably will not accept the substance of Mr. Kilpatrick's proposal; Mr. Childs doubtless will be reticent about acknowledging the efficacy of a program of cohesion which does not involve unification and centralized responsibility. This suggests that the author's rôle, instead of being that of a Stanley sent to rescue the Livingstons in this "dark continent" (p. 41), may be a bit more quixotic than he imagines; the Don, however, had but one windmill to fight.

Rowland A. Egger.

Princeton University.

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Standards Yearbook, 1929. *Bureau of Standards Miscellaneous Publication No. 91.* Washington, D. C.; Superintendent of Documents, U. S. Government Printing Office, 1929. 401 pp.

This is the third in the series of annual handbooks on standardization compiled by the specifications division of the U. S. Bureau of Standards.

The *Standards Yearbook* was first published in 1927 in response to a widespread demand for a condensed statement of national and international activities in standardization. The 1929 volume is even better than its predecessors. It discusses fully and completely the work of the various international standardizing bodies, and devotes many pages to telling in detail the work performed by the Bureau of Standards and other technical divisions of our federal government. It also briefly sets forth the standardization activities of various trade associations of the United States.

Of particular interest to government officials is Chapter VII, which describes the work of state, county, and municipal governments in adopting and using specifications in purchasing. This chapter interestingly tells the standardization methods followed by various governments, shows the extent to which specifications are used in purchasing, and reports the use made of scientific testing in the enforcement of specifications. The 1929 *Yearbook* is a valuable help to any offi-

cial interested in the use of scientific standard specifications in the purchase of supplies, material, and equipment.

RUSSELL FORBES.

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MUNICIPAL REPORTS

CLAWSON, MICHIGAN. *Annual Report for the Fiscal Year Ending December 31, 1928. L. P. Cookingham, Village Manager.* 58 pp.

For a report covering the activities of a small town this one does very well. Immediately following the letter of transmittal and foreword comes a five-page review of the work of the village commission—a very commendable feature, but it should have been condensed to half the space. Then in fairly logical arrangement appears an account of the activities of the administrative departments. Why the list of "future needs" is placed about two-thirds through the report is not clear. This is an important feature and should have occupied a conspicuous position. The principal weakness of this report, however, is its almost total lack of illustrative material. More pictures and charts and fewer dry financial tables would have enlivened the report, enhanced its attractiveness, thus making it more interesting to read. In spite of these rather glaring defects the report is entitled to a fairly good rating.

EAST CLEVELAND, OHIO. *Eleventh Annual Report Under Council-Manager Government. For Year 1928. Charles A. Carran, City Manager.* 63 pp.

Here is a very attractive and dignified public report. If it had been issued more promptly after the period which it covers and had contained more illustrative material, instead of being among the best reports of the year it actually would have been the leader. There are only two other obvious defects—a lack of emphasis upon important facts and too many financial tables. The favorable features include a good organization chart; a clear and concise letter of transmittal, which does, however, fail to make mention of future plans; a proper balance of space allotted to the various activities; and a clear presentation of the context. All in all an excellent report.

STAUNTON, VIRGINIA. *Twenty-First Annual Report Fiscal Year Ending March 31, 1929. Willard F. Day, City Manager.* 50 pp.

The reviewer is pleased to record a marked improvement in this report over the one issued a year ago, and when it is remembered that Staunton stood fifth in the final rating of reports in 1928, this becomes no mean compliment. To begin with, this report reaches two desirable objectives equalled in a single report by but one other this year—the report was available to the taxpayers in less than six weeks after the close of the period covered, and it was presented within fifty pages. The organization chart which comes at the front of the report contains not alone the structural plan of the municipal government, but also gives the title of the head of the administrative unit and lists the main activities for which he is responsible. Then follows a letter of transmittal by the city manager which for conciseness and directness stands alone among the reports reviewed by the writer this year. It is to be regretted that the illustrative material does not maintain the high standard of the other features, but nevertheless this is one of the very best that have been reviewed in these columns during the past two years.

CLARENCE E. RIDLEY.

JUDICIAL DECISIONS

EDITED BY C. W. TOOKE
Professor of Law, New York University

Excess Condemnation—Recoupment of Costs.—In *Cincinnati* v. *Vesper*, 33 Fed. (2d) 242, the Circuit Court of Appeals, Sixth Circuit, affirmed the decree of the district court, enjoining the condemnation of the plaintiff's property in excess of the amount actually needed by the city to widen a street upon which the lands abutted. Section 10 of article 18 of the Constitution of Ohio adopted in 1912, provides for excess condemnation with power to sell the property not needed "with such restrictions as shall be appropriate to preserve the improvement made." The ordinance authorizing the condemnation stated that the additional area was taken "for the more complete enjoyment and preservation of the benefits to accrue from the taking of the 25-foot strip" to be used for street purposes.

The evidence in the instant case showed that the real purpose of the excess condemnation was to sell such excess at a profit and use the proceeds to pay for the improvement. Neither the remnants theory nor the protection theory seems to have been applicable under the facts. It was not shown that the land in question was a mere incidental remnant of the plot to be used for street purposes nor that the city had any plan for using it for beautifying the street or for extending building restrictions. The only point of law therefore in the case was whether the public benefit that might accrue to the municipal treasury by an increase in value of the land is such a public use as will sustain the exercise of the power of eminent domain.

It seems plain that under the state constitutional amendments in Ohio, as well as those in New York, Massachusetts and Wisconsin, such a taking would be considered for a public use, but the court holds that under the Fourteenth Amendment the mere financial benefit to the condemnor cannot be held to be a public use that justifies the appropriation of private property, even upon payment in full to the owner. With this limitation upon the power, it is plain that little or nothing has been gained by the amendments to the state constitutions, for an excess taking that would satisfy either the remnant theory or the protection theory would probably be sustained under the general principles of eminent domain. Whether, therefore, excess condemnation for recoupment of the expense of a public improvement is to be sustained must await the decision of the Supreme Court, to which an appeal may be made.

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Zoning—Discontinuance of Non-Conforming Use.—In *State ex rel. Dema Realty* v. *Jacoby*, 123 So. 314, the Supreme Court of Louisiana upholds the validity of a zoning ordinance of the city of New Orleans, which requires the abandonment within one year of any non-conforming use in a restricted district. The action was brought on the relation of another property owner, who claimed that the continuance of the defendant's retail drug store in the residence district after the expiration of the time limit was of special injury to the plaintiff's property. In holding that the plaintiff had a right of action and that a preliminary injunction should be made absolute, the court finds that the city had the statutory power to pass such an ordinance and that it does not contravene either the state or federal constitution.

As applied to the defendant's use of her property, the court justified this exercise of the police power upon "the inflammable tendency of much of the contents of these stores," and further holds that the ordinance is not discriminatory as it applies to all persons similarly situated. Whether the effect of such an ordinance is to deprive an owner of property without due process of law is still an open question. Many statutes require the existing use to be recognized, and several state courts have held that to deprive the owner of such a use violates the due process clause of the Fourteenth Amendment. An appeal to the Supreme Court in the instant case would bring this question directly in issue. It would seem that the ordinance in question, being absolute and without exception, would be held to deprive the defendant of her property without that due process guaranteed by the federal constitution.

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Special Assessments—Repayment of Moneys Collected Upon Abandonment of Project.—The

question of the right of property owners to recover moneys collected by special assessment upon abandonment of the enterprise seldom arises. But in *District of Columbia* v. *Thompson*, 30 Fed. (2d) 476, the right of the municipality to retain moneys under such circumstances was directly in issue. In 1912 the commissioners of the District instituted a proceeding to condemn land for the extension of Lamont Street northwest, the cost to be defrayed by special assessment of lands abutting on the street in certain designated squares. The necessary lands were condemned, but the District never proceeded to open the extended portion of the street and when in 1926 the plaintiff demanded the repayment of the money collected from her the auditor of the District replied that "the official files of the engineer department indicate that it was never the intention to open Lamont Street between squares 2604 and 2605 to vehicular traffic because of the excessive grade." Upon the trial of the action brought to recover the funds, it appeared that no street improvement of any kind had been undertaken and that in 1924 the District authorities had laid a curb and sidewalk across the end of the existing improved street that effectually obstructed any vehicular traffic over the extended area.

In sustaining a judgment for the plaintiff, the court held that the basis of the assessment was the benefit to accrue from the opening of the street and that having failed to realize such improvement the District's action in retaining the moneys could not be upheld. The court cited *Bradford* v. *Chicago*, 25 111. 411, and *Valentine* v. *St. Paul*, 34 Minn. 446, as authorities for its conclusion that under these circumstances an action lay against the municipality for money had and received. As bearing upon the running of the statute of limitations, the court held that evidence of definite abandonment dated from the communication of the auditor above referred to.

The District has appealed this case to the Supreme Court and its decision will be awaited with interest. No one can question the justice of the decision. Under the most favorable view, if there was no intention to use the lands for street purposes, the taxation of plaintiff's property was without warrant in law. Nor should the statute of limitations be considered to run against the rights of the plaintiff, till notice of the illegality of the act which deprived the plaintiff of her money was brought to her attention.

Home Rule—Amendment of Charters.—In 1915, the legislature of Massachusetts enacted a statute "to simplify the revision of city charters" (General Laws, ch. 43) which granted to cities other than Boston the right to amend their charters by adopting the provisions of that act applicable to the one of four optional forms which the city might choose. In 1928 the city of Fall River acting under this authority adopted what is known as "Plan D" charter. Prior to this action the members of the board of police of the city were appointed by the governor and council, and the police department was under the control of such board. The question whether the adoption of the new charter effected an abolition of the existing board of police and vested the power to appoint a new board was raised in the case of *Sullivan et al.* v. *Lawson et al.*, 166 N. E. 850, an action by the petitioners, as appointed by the city manager under the new charter, to compel the recognition of their right to the office of members of the board of police.

In holding that the statute of 1915 did not confer the power upon the city by amending its charter to abolish the existing board of police with its full supervising power on the department, the Supreme Judicial Court relies upon the fundamental principle of legislative control of municipalities, which it construes to forbid any delegation of charter-making power unless by the clearest intendment. The language of chapter 43 of the General Laws reads: "This chapter, so far as applicable to the form of government under the plan adopted by the city, shall supersede the provisions of its charter and of the general and special laws relating thereto and inconsistent herewith." But a later clause states that the inhabitants of a city voting thus to amend its charter "shall have, exercise and enjoy all the rights, immunities, powers and privileges and be subject to all the duties, liabilities and obligations provided for in this chapter, *or otherwise pertaining to or incumbent upon said city as a municipal corporation*." The italicized clause, the court says, is a limitation upon the general terms and prevents the act from conferring any new powers upon a specific city. "The right and power to control its police did not pertain to and were not incumbent upon Fall River."

The Supreme Court of Ohio in *City of Bucyrus* v. *Department of Health of Ohio*, 166 N. E. 370, has recently construed the article XVIII of the state constitution to subordinate all local health

regulations to the provisions of statutes covering the same subject. Section 3 of the amendment adopted in 1912 reads that "municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within the limits such local, police, sanitary, or other similar regulations as are not in conflict with general laws." It is apparent therefore from the wording of the amendment that as to local sanitary measures or police regulations the municipalities are in no different situation since the adoption of the amendment than they were before, except that now they have a general power which may be limited by statute whereas previously the power had to be enforced by the legislature. In the instant case, the approval of the state department of health to a proposed sewage disposal system of the city was held to be necessary, such approval being required by the general law.

Both of these decisions are based upon the logical application of well-established rules of statutory construction. The contention that the legislature of Massachusetts did not intend the result which the court draws from the word of the statute does not seem to be well founded. If the legislature intended to effect a different result, it singularly failed to distinguish between a grant of powers and a change in governmental machinery. It seems clear that the legislature intended by the act of 1915 to make a change only in the method of administering existing powers and that the court correctly construed the statute.

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Public Parks—Liability of City for Negligence in Maintenance.—Two decisions recently handed down illustrate the different rules applied in the various states as to liability of municipalities for negligence in the care of public parks. Such liability is enforced in New York and in perhaps a majority of the states, the function being considered for this purpose to fall on the proprietary rather than the governmental side of municipal activities. In *Lamm* v. *Buffalo*, 225 App. Div. 599, the Appellate Division of the Fourth Department of New York affirmed a judgment recovered in the municipal court against the city for damages incurred by a traveler on the highway who was struck by a baseball batted from a park diamond. The negligence, if any, consisted of inviting ball games to be played so near the public highway as to subject travelers to an unreasonable hazard.

Massachusetts holds strictly to the doctrine that cities and towns are not to be held liable for negligence in the care of parks unless a statute expressly imposes such liability. In *Hennessy* v. *Boston*, 164 N. E. 470, the plaintiff, who owned premises adjoining a public playground, prayed for a permanent injunction against the acts of the city which resulted in a continuing trespass to her property from baseballs knocked into her grounds and the invasion of her lands by the players to recover them. In affirming so much of the decree as granted the injunction prayed for, the Supreme Judicial Court of Massachusetts supported the jurisdiction of equity upon the express ground that the plaintiff had no remedy at law against the defendant city. Under the facts of the case, the equitable remedy seems far more effective than an action which would give the plaintiff only damages for the injuries suffered.

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Airports—Municipal Airports as a Public Utility.—By the authority of *State ex rel.* v. *Abele*, 119 Ohio St. 210, 162 N. E. 807, decided in 1928, every ordinance for the establishment of a public utility was held to be subject to referendum. In the case of *State ex rel.* v. *Jackson*, 167 N. E. 396, the Supreme Court of Ohio had before it an original suit in mandamus to compel the authorities of the city of Canton to submit to a vote of the electors an ordinance for the purchase of lands for a municipal airport. As the previous ordinance had been adopted authorizing a bond issue for the same purpose, the contention was made that the ordinance in question was not the initial legislation upon the subject and therefore not subject to a compulsory referendum. The court thus had before it the question whether an airport is a public utility, all legislation regarding the establishment of which would be subject to the approval of the electors. The statute gives full authority to municipalities "for purchasing and condemning land necessary for landing fields either within or without the limits of a municipality for aircrafts and transportation terminals and uses associated therewith or incident thereto, and the right of way for connections with highways, electric, steam and interurban railroads and improving and equipping the same with structures necessary or appropriate for such purposes." Upon a consideration of the terms of the statute, the court concluded without further argument that a landing field for aircraft is a public utility, and the writ of mandamus was allowed.

JUDICIAL DECISIONS

Streets and Highways—Statutory Liability of Counties for Care in Maintenance.—By section 2408 of the General Code of Ohio the board of county commissioners is made liable for damages resulting from its negligence in failing to keep in proper repair a state or county road established by such board in the given county. The courts of that state have held, however, that in those cases where subsequent statutes have imposed upon the state the duty to care for state roads the section does not apply (*Weiher* v. *Phillips*, 103 Ohio St. 249). In an action to charge the County of Erie with liability for an accident due to defects in a highway within that county, the question arose as to whether the road was to be considered a state or county highway. The state had taken steps to improve and take over the road, but the construction of the improvement had not been begun. In *Bellard* v. *Board of Commissioners of Erie County*, 167 N. E. 404, the Supreme Court of Ohio held that under the statute the county would remain liable until the actual construction of the improvement by the state was begun, and that if negligence were shown the plaintiff was entitled to recover.

A situation, however, might arise wherein, after the construction or assumption by the state of a highway, the county authorities under a delegated power agree to take over its maintenance. By the laws of South Dakota, counties were likewise made liable for negligence in the maintenance of county roads, and the courts have also held that upon the transfer of this duty to the state the statutory liability would not apply. But the statute authorizing the assumption by the state of county roads as a part of a trunk-line system provides that the work of repairing and maintaining such road can be performed "by day labor, by convict labor, or by contract or by agreement with the board of county commissioners." In *Cain* v. *Meade County*, 233 N. W. 734, an action was brought against the county for damages due to a defect in a state highway which the county had agreed to maintain and keep in repair.

The Supreme Court of South Dakota held the county liable, not by force of the statute, but upon the express ground that the county by its agreement with the state had become an independent contractor and as such has assumed a duty to the public. For its failure to perform such duty, the court holds it to be liable to any member of the public injured thereby, without regard to the question whether the duty is governmental or proprietary in nature. It may be observed that the liability predicated by the court in this case is not statutory but is based upon the common law principles of agency. The county is considered to be in the same position as any private independent contractor who by contract assumes obligations which involve the performance of duties to third persons. The application of this theory of liability to subordinate state agencies seems to be novel, but in fact it is closely akin to the theory of Judge Selden in *Weet* v. *Brockport* (15 N. Y. 161) which established the New York doctrine of liability of cities and villages for injuries due to defective streets and highways.

PUBLIC UTILITIES

EDITED BY JOHN BAUER
Director, American Public Utilities Bureau

The Service Charge Before the Commissions.—The service charge, or its equivalent "initial charge," continues to absorb the attention of the commissions. We shall briefly review the more important cases of the past year.

In most instances the companies are not seeking to establish a pure service charge, as distinguished from a commodity charge for gas. They have supported a modification, by including a small quantity of gas with the amount that would otherwise appear as a service charge. The typical form has been $1.00 per month, per customer, for 200 cu. ft. of gas or less, and a commodity charge of 9 cents or more per 100 cu. ft., according to circumstances. The *service charge* is thus presented as an "initial charge," and is offered as the first step in an assumed block system of rates. A pure service charge would include no gas for the fixed monthly payment.

The Brooklyn Union Case

This form of rate has received the support of the American Gas Association and is being sought by gas companies all over the country. In 1928 the Brooklyn Union Gas Company presented a schedule of this type. This was opposed by the city of New York and the Gas Consumers' League, who contended that the proposed initial charge was not justified on proper analysis and allocation of costs. They contended also that the form of rate was illegal because it was really a service charge, which is prohibited under the New York statutes. In February of this year, the New York Public Service Commission by a vote of three to two, rejected the schedule upon the ground that the company had not sustained the burden of proof to justify the proposed initial charge, which was 95 cents per month per customer.

Following this decision the Brooklyn Union Gas Company applied for a re-hearing, which was granted. The company has produced further testimony, and has presented further technical exhibits and cost allocations. The scope of cost analysis has been extended materially. The city and consumers are preparing a detailed cost study of typical service districts. They are contending that the larger customers would be unduly benefited by the new schedule, and the smaller consumers would be unjustly penalized. They propose to show that the cost of serving the larger customers is much greater than for the smaller customers; that the latter as a group are already more than paying their way; and that the larger customers as a group are served without adequate return to the company. This re-hearing is regarded as the major test case before the New York commission, both as to the law and cost analysis. The small consumer side is being presented probably with much more completeness than in any other case heretofore considered.

Brooklyn Borough Case

While the New York commission rejected the Brooklyn Union initial charge schedule, it has since approved a similar rate, put into effect August, 1927, by the Brooklyn Borough Gas Company. In all fundamental respects, the two cases appeared to involve the same issues and kinds of facts. The city and the consumers had expected the same decision in the Brooklyn Borough as in the Brooklyn Union case. There are, however, distinguishing considerations.

In the first place, the Brooklyn Union schedule was suspended; and the old rates were actually in effect when the decision was made. But the Brooklyn Borough rates had actually gone into effect before an investigation was started; they were not suspended during the period of inquiry. The commission, therefore, was not confronted merely with the rejection of a proposed schedule, but with the ordering of new and different rates from those actually in force. Such an order would have brought objections on the part of many customers.

A second point. The differences in conditions of service in different parts of Brooklyn Borough territory are probably not so great as in Brooklyn Union territory. There are, it seems, less extremes between elaborate single-family districts, and apartment house and tenement regions. There are, apparently, less distinct poorer dis-

tricts affected by the initial charge than in Brooklyn Union territory.

A third point. Although the commission allowed the initial charge in the Brooklyn Borough case, it ordered a reduction of .5 cent per 100 cu. ft. in the commodity rate, on top of an earlier reduction of .5 cent made by the company as of January 1, 1929. Since this case had started, there had thus been a total reduction of 1 cent per 100 cu. ft. in the commodity rate, while in the Brooklyn Union schedule no commodity reduction had been provided.

With respect to the law, the commission held that the form of rate did not come within the statutory prohibition of a service charge. Mayor Walker has requested Corporation Counsel Arthur J. W. Hilly to ask for a re-hearing, both as to the law and facts. If upon re-hearing, the commission should again sustain the initial charge schedule, an appeal will doubtless be taken, at least, with respect to the legal issue,—whether or not the initial charge is a violation of the New York statute prohibiting a service charge.

Hearings on State-Wide Uniform Gas Rates

Besides the New York City cases, the New York commission has also under consideration an initial charge case in the city of Buffalo, with like issues and facts. In addition, it has held hearings on general gas rate structures, with the purpose of developing greater uniformity of rate schedules for the state at large. Up to date the hearings have been devoted to testimony presented on the part of the gas companies, which have appeared, with unanimity, in support of the service charge or initial charge. They have presented no other phases of rates as to which they desire revision and greater uniformity. They contend that the prevailing flat rate for gas results in a large amount of unprofitable business; that the smaller consumers are carried at a loss, which must be borne by the larger customers; that the rate is inequitable and prevents the desirable development in the gas business.

The city of New York has been joined by several other municipalities in opposing this general company movement in support of the service charge. The witnesses of the New York City companies have been subjected to rigorous cross-examination, with the purpose of showing that there are no such customer costs as alleged, and that the smaller consumers as a class are not carried at a loss as claimed. The hearings were adjourned during summer, and will be resumed during autumn. Cross-examination of the companies' witnesses will be continued, and direct evidence will be presented on the part of the municipalities.

Public Service of New Jersey

The same service charge issue was raised in New Jersey when the Public Service Electric and Gas Company in December, 1928, filed a new schedule of rates. The old rate for domestic consumers was $1.20 per M cu. ft., with a minimum bill of $1.00 per month, per customer. The proposed rate was $1.00 per month, per customer, for the first 200 cu. ft., or less, and 9.5 cents per 100 cu. ft. for the next 49,800 cu. ft. This includes practically the entire domestic group. While further reductions were provided for larger quantities, they did not apply to ordinary domestic consumption. The new schedule would have resulted in higher rates for all customers using under 3,300 cu. ft. per month, and in lower charges for those using over 3,300 cu. ft. per month; increases for about 75 per cent and decreases for about 25 per cent of the consumers.

The municipalities of Northern New Jersey opposed the new schedule and asked for a hearing before the board of public utility commissioners. The rates were suspended during the investigation. Upon request of the municipalities, the commission engaged Adolf J. Luick to make an independent study of the proposed schedule. He reported that it was not unreasonable, and would not bring the amount of return to which the company is entitled. He brought up to date the valuation of the properties, and made an allocation of costs along the lines sponsored by the American Gas Association.

After this report was published, the municipalities engaged Dr. Edward W. Bemis to make a special study for them, and he testified on cost allocation. The company placed in evidence Mr. Luick's report, together with other testimony and exhibits. The commission rejected the schedule as proposed by the company on the ground that an insufficient quantity of gas was included in the initial charge. It prescribed the inclusion of 400 instead of 200 cu. ft. per month for the $1.00 initial charge. For the next 1000 cu. ft. it fixed 11 cents per 100 cu. ft. instead of 9.5 cents as proposed; beyond this block it adopted the commodity rates in the company's schedule.

The commission subscribed to the doctrine that the flat rate is discriminatory as between classes of customers, and that the initial charge type is a more equitable form of rate. It considered the several classes of costs, but refused to include among customer charges important items which were so classed in the Luick report. The schedule as prescribed is, of course, less burdensome upon the small consumers than the rejected rates. On the basis of 1928 business, it is expected to produce no more revenue than the company was receiving under the old rates.

The commission allowed, in the initial charge, customer costs which it believes are not fully provided for under the flat rate. It adopted virtually Dr. Bemis' analysis of 58.9 cents per customer per month, plus the cost of 400 cu. ft. of gas. In adopting this figure of 58.9 cents as a service charge for everybody, the commission, it seems to us, arbitrarily followed an average and disregarded the material differences in such costs as between different classes of consumers. Nor did it consider what we believe is the fact, that larger customers as a class are served at much greater unit costs than small customers, with regard to other very important elements of cost.

Elements of Service Costs

Meter reading, for example, is unquestionably a customer cost and considered by itself might be properly included in a service charge. But there are great differences in the cost of meter reading between service districts. In a large modern apartment, the reading cost per meter is small because of the large number to be read in one place, and the short amount of time consumed in passing from one building to another. In districts of single-family houses, especially of the more elaborate type, the unit cost is much greater, because there is but one meter in each premise, and the bulk of time is used in passing from one house to another. Hence, a properly determined charge for an apartment-house section, would be much lower than for a single-family residential district. An average would overcharge the one class and undercharge the other.

Practically all the customer costs are greater per customer in the sections of more elaborate single-family houses than in apartment-house districts. Hence, a uniform service charge based upon average unit costs, discriminates against one class in favor of another. This discrimination applies not only to apartment-house consumers, but to the large numbers of poorer consumers who live in densely settled tenement sections.

A second consideration, completely disregarded by the commission, is the fact that the larger residential customers as a class live in single-family houses of the more elaborate type, and the smaller consumers in densely settled districts. While as individuals the large customers consume larger quantities of gas than the apartment-house or tenement dwellers, collectively they use much less in proportion to the districts served. They consume much less gas per thousand feet of mains or in proportion to investment in distribution system. They are responsible for much greater costs per customer, or per M cu. ft., of gas sold, for all the distribution costs. The relative unit costs are not determined by individual consumption, but by the collective use made in the different districts. This collective density factor was given no consideration by the commission.

Considerable attention was given to apartment houses, partly because the consumers are mostly of the smaller group, and partly because they are usually among the more well-to-do classes. So far as cost of service is concerned, the condition of supplying gas to large modern apartment houses produces the maximum relative economy, both as to meter reading and ordinary customer costs, and, particularly, as to other distribution costs, especially as to the principal items—maintenance of mains and interest on investment in mains.

The controlling difference between an apartment-house section and a single-family district is not the quantity of consumption per customer, but rather the relation of the total of each kind of cost to the total number of consumers and the total quantity of consumption. If several typical districts had been thoroughly studied and the cost analyzed, we firmly believe that both as to customer costs and the other large distribution costs, the facts would show relatively much lower unit costs in the apartment-house and tenement sections than in single-family house districts. This means higher unit costs for the larger customers as a group, as to both kinds of cost.

Perhaps we are wrong as to what the facts would prove. But it is investigation and analysis of this sort which are needed before a final pronouncement may be made that the flat rate is discriminatory against large consumers and

that the service charge removes the discrimination.

Great emphasis was placed upon customer costs, and the failure of the flat rate to provide for them. But there should be emphasis, also, upon the sectional diversity of customer costs, and upon the great disparity of other distribution costs with relation to districts and their aggregate gas consumption. If all these factors were properly taken into consideration and given reasonable weight, the alleged discriminatory aspect of the flat rate with respect to customer costs would probably appear less impressive, and a service charge less imperative for the just treatment of large consumers.

Through the uniform initial charge, and through the uniform lower commodity charge, the New Jersey commission has authorized double discrimination, as it seems to us, against the smaller consumers as a class. Through the application of artificial averages, it imposed upon them higher customer costs, as well as greater distribution costs, than are actually incurred by the company in their behalf.

Other Service Charge Cases

The service charge is also one of the issues before the Georgia public service commission. During the past year this commission authorized a service charge for gas in Atlanta and several other municipalities supplied by the same company, also for electricity furnished by the Georgia Power Company. And it has now before it a proposed service charge for Augusta, which is opposing the new schedule and is preparing for a complete investigation of the facts and issues. In the meanwhile steps are being taken by other municipalities to have a thorough examination made by the commission, not only as to gas rates, but also electric rates in the entire territory served by the Georgia Power Company.

The Massachusetts department of public service is another commission which has been struggling with the service charge. About a year ago it handed down a decision rejecting an initial charge as then proposed by the Boston Consolidated Gas Company, and pointed out that not more than a 50-cent service charge would be justified. The company then appeared with a second schedule which did not follow the commission's suggestion and was rejected. Since then it has filed a third schedule which provided a 50-cent service charge and was approved by the commission. Now, however, the small consumer's side has been taken up vigorously by Mayor Nichols who, through petition filed by Assistant Corporation Counsel Samuel Silverman, has obtained a re-hearing of the case. Presumably a thorough cost study will be made by the city.

The next two or three years will undoubtedly witness a continuous struggle over this troublesome service charge question. The difficulty up to date has been the treatment of the matter upon general and abstract grounds, or so-called principles, instead of concrete investigation and analysis of facts.

On the companies' side, there has been an extreme doctrinal espousal of the service charge as a cause. There has been overemphasis upon customer costs and the inclusion with customer costs, items that have no dependence upon the number of customers. On the public side there has been inadequate preparation to meet the issue in most cases, and too many commissioners and commission engineers have been inclined to the doctrine without factual investigation and cost analysis.

MUNICIPAL ACTIVITIES ABROAD

EDITED BY W. E. MOSHER

Director, School of Citizenship and Public Affairs, Syracuse University

Berlin Acts to Reduce Danger of Skidding.—Public authorities in the city of Berlin have been making an extensive investigation of methods whereby skidding on slippery asphalt pavements may be reduced. The local government has just appropriated two hundred thousand marks for the express purpose of roughening the surface of the asphalt pavement. One half of this sum is to be used in treating some pavements by special machines, the other half for covering others with a light coating of tar and fine stone or some similar material. Street crossings and the spaces where brakes are likely to be used are to be subjected to such treatment first.

Consideration was given to the possibility of replacing asphalt that has already been laid. This however seemed out of the question as there are something like fifty and a half billion square meters of such surfacing in the city at the present time. It was estimated that the cost of replacement would exceed two hundred million marks.

It has been determined not to use asphalt in the restoration of streets which are now paved with it, and this in spite of the many advantages of this type of pavement. In other words it has been decided to sacrifice all of the advantages of asphalt pavement because of slippery condition in wet weather.

Some experiments have been made with rollers that are equipped with a device that imprints upon the asphalt a criss-cross effect, like a waffle. Special attention is also to be given to the method of cleaning the streets so that the film of oil which comes from the automobile may be more regularly and more completely removed.

Automobile drivers are to be warned to avoid dripping oil and to see to it that the treads of the tires are not worn smooth and, above all else, to drive cautiously when the pavement is wet.—*Zeitschrift für Kommunalwirtschaft*, July 10, 1929.

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Sub-Surface Use of Highways.—The increasing construction of hard roads on the one hand and the rapid expansion of public utilities such as gas, electricity, telephone, water and drainage, on the other, call for far-sighted planning and imaginative engineering in the name of economy and public convenience. This will become the more mandatory as time goes on, when overhead wires for telephone or electricity in the urban areas will be taboo. A series of papers on the sub-surface use of highways has recently been running in the well-known English periodical, the *Municipal Journal and Public Works Engineer.* The various factors which must be taken into account in the development of a comprehensive policy for the sub-surface use of highways are given careful consideration. By way of approach it is emphasized that highway authorities have been inclined to regard surface utilization as the be-all and end-all of road construction, and in seeking durability have paid too little heed to the needs and implications of sub-surface uses. Concrete and steel reinforcements have been utilized for road construction, regardless of the immensely increased difficulty and expense thus placed on public utility distributors.

The gist of the matter is best brought together in the report of an expert committee appointed by the Surveyors Institution. The heart of their recommendation is that in all cases of extensive street improvement and widening, a subway be provided that will care for all underground services with the possible exception of high-tension electric cables. Even in case of short streets which will probably later be extended such a subway might well be installed, as a beginning must be made somewhere. With the construction of a subway to provide for most of the utilities it will be unnecessary to tear up the streets over and over again, either for the purpose of making repairs or for increasing the capacity of the given service.

It is pointed out that all subways should be thoroughly ventilated with access to the outer air, and regularly patrolled.

The specifications are also included in the report of the expert committee covering the laying of pipes where a subway is not obtainable. Among other things it is suggested that wherever pipes are laid in ground that does not afford a

solid foundation, steel pipes should be used. Any pipes of nine inches in diameter or less should be laid at a minimum of three feet from the surface of the road to the top of the pipes. Mains of larger diameter should be laid at a minimum of five feet where practicable, but in no case less than four. High tension mains should be not less than three feet six inches below the surface and covered with some material sufficiently strong to prevent accidental penetration. Cast-iron ducts or heavy metal plates are recommended as suitable for this purpose.—*Municipal Journal and Public Works Engineer*, June 28, 1929.

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Beautifying the Roads.—England may boast not alone of its organization for the preservation of rural beauty but also of an organization that calls itself the Roads Beautifying Association. In view of the new scheme of highways that is being worked out in almost every country the problem of beautifying new roads is one of considerable importance. As is well known, such roads are likely to be barren and unsightly. In order to solve this problem the Association believes that it will be necessary to call on all of the arts. One must be concerned for landscape architecture, including sculpture, for landscape color and for landscape gardening. One leading authority in England maintains that every local government area should have an advisory committee which would consist not only of certain permanent public officials, but also of a city planning expert, in towns an architect-and in the country a landscape gardener.

The Roads Beautifying Association was organized about a year ago. It has secured the coöperation of two leading experts who motored through the country and gave advice as to trees and shrubs most suitable and attractive for each part of the new road. Work was begun at once according to the suggestions of the two advisers.

The Roads and Remembrance Committee, which is affiliated with the Association, has recently appointed an Advisory Committee on Sculpture. This is headed by the presidents of the Royal Society of British Sculptors and of the Royal Institute of British Architects. It is their function to advise as to the suitability of works of sculpture including fountains, bird baths and seats for the decoration of roads, as well as to pass upon suitable sites for these ornaments or monuments.

The author of the article expresses the hope that the Labor party "with its feeling for beauty in nature and art will take the lead" in this movement.—*The Local Government News*, June, 1929.

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Self-imposed Professional Standards.—The last annual report of the Institute of Municipal Treasurers and Accountants of Great Britain is of interest because it gives evidence of the method followed for maintaining high standards among its membership. As is well known, it is one of the associations of local governmental officials which has won recognition on the part of local authorities in that the latter require the official recognition of candidates for positions on the part of the Institute before appointment. According to the report covering 1928–29 four examinations were given to aspirants for membership in the Institute. There were 761 candidates, something over 150 more than presented themselves in the preceding year. The difficulty of the examinations may be assumed since in none of the examinations did a majority of the candidates meet with success. In the final examination, for instance, fifty-one applicants tried Part I, but only sixteen, or thirty-two per cent, were successful. One hundred and sixty-seven candidates undertook the final examination in Part II. Of this group only twenty-five, or fifteen per cent, satisfied the examiners. Finally one hundred and thirteen submitted themselves for the final examination in both Part I and Part II of whom only seven, or six per cent, met the required standard.

The membership of the Institute consists of two hundred and ninety-nine fellows, three hundred and seventy-seven associates and two hundred and fifty-one honorary members. There are three thousand two hundred and sixty-two members in the student society.

The professional standards of the municipal treasurers and accountants is attested to by the recognition which they enjoy on the part of other public organizations. For example, the government has asked their consideration and criticism of its proposals in connection with the finances of the county units. The Council was also invited by the Royal Commission on Local Government to submit a memorandum dealing with certain questions concerning the principal offices of local authorities. Representatives were further requested to give oral testimony before the commission on this subject. In conjunction

with this the commission asked the members of the Institute to prepare a memorandum on the financial administration of local authorities.

The minister of health, the central electricity board, the Association of Municipal Tramways and Transport and the Municipal Electrical Association have turned to the organization of the municipal treasurers and accountants for coöperation with reference to a number of plans which are under consideration on the part of these bodies. It is obvious that there is a direct connection between the jealous regard given to the qualifications of entrants and the recognition of the Institute in a professional capacity.—*The Municipal Journal and Public Works Engineer*, June 21, 1929.

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Meetings of the International Union of Municipalities.—The International Union of Local Authorities is planning for meetings in 1930 at Antwerp and Liege. These meetings are to take place as a part of a celebration of the centenary of Belgian independence. The subjects to be discussed are (1) mixed undertakings of a public and private character and (2) insurance by local authorities.

The next regular meeting of the Congress, which takes place in 1932, is to be held in England. The topics to be considered on this occasion are the actual working of local administrative authorities and the training of officials for local government service. Plans are already under way for setting up questionnaires which will serve as a basis for the reports to be prepared on the practices and plans of various participating countries. If the standards of the reports presented at the March meeting in Seville are to be maintained, two or three years will be none too long a time for preparing the ground.—*Local Government Abroad*, April, 1929.

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The Single Tax Again.—In view of the changes in the English scheme of assessments inaugurated within the year, having as one of its features the reduction of the tax burden upon certain classes of producers, the question of assessing property is at present very much to the fore. In this connection the following recommendations of an advisory committee set up by the chairman of the Parliamentary Labor Party to consider the land question, will be of interest. It was recommended that:

"(1) An effective land valuation department be reëstablished and a national land valuation be put in hand. This valuation should be public and should include all land and minerals. It should show (a) the unimproved or site value, and (b) the total value of land, and improvements. The valuation should be kept up to date, and all land should be re-valued at least once every five years.

"(2) A national flat rate land tax at the rate of one penny in the pound be imposed on the unimproved (or site) value, whether the land is used or not. . . . The tax should be collected from the owners, either directly or by deduction from rent. Provision should be made for charging part of the tax upon lessees where these enjoy an element of land value.

"(3) Local authorities should be given the power to levy a local flat rate of any amount on all land values within their area. This rate to be either in partial or complete substitution for the present rates, and to be paid by the owners of empty houses, or unused land just as by those owners who are using their property.

"(4) The land value taxation which we propose should be regarded, primarily, as a means of (a) collecting the economic rent for the community; (b) deflating land values and so cheapening land; (c) promoting the improvement and the most profitable use of land; and (d) facilitating the acquisition of land by Public Authorities.

"But the advocacy of the principle of Land Value Taxation is not confined to any particular political party. Prominent statesmen of all shades of opinion have expressed themselves in its favour, and by many who are not convinced of its general utility it is felt to be applicable to urban areas."—*Local Government News*, June, 1929.

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Expanding the Scope of Town Planning.—It has already been noted in these pages that a council has been organized in England for the preservation of rural England. At a recent conference of the Urban District Council it was recommended that local authorities coöperate in the work of this council. The following specific suggestions were made by the latter organization: that full use be made of the Advertisements Regulation Act; that wherever possible the special model clause controlling the design of new buildings be included in town planning schemes with special reference to regional planning pro-

grams; that sound standards of taste be set up for the architecture and location of new municipal buildings; that the county council be stimulated to pass by-laws concerning advertisements, gasoline stations and the like; that trees be planted and properly cared for on the roadside; and that local educational institutions be stimulated to include in their curricula guidance in citizenship and the cultivation of taste.

In conjunction with these recommendations the proposal might be cited that the board in charge of the development of electrical services should be requested to require that in the future unsightly overhead wires should be constructed under ground in built-up municipal areas, particularly in view of the projects for extensions of the distributing system.—*Municipal Journal and Public Works Engineer*, June 28, 1929.

GOVERNMENTAL RESEARCH ASSOCIATION NOTES

EDITED BY RUSSELL FORBES
Secretary

Recent Reports by Research Agencies.—The following reports have been received at the central library of the Association since August 1, 1929:

Bureau of Governmental Research, Kansas City, Kansas, Chamber of Commerce:

The 1930 Budget of the Fire Department
The 1930 Budgets of the Health, Garbage and Street Cleaning Departments
The 1930 Budget of the Park Department
The 1930 Tax Rate for Bonds and Interest
The 1930 Budget of the Police Department

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Buffalo Municipal Research Bureau.—The directors of the Bureau are putting on a series of radio talks on the general theme of "Issues of Good Government." The series began on August 20 and will continue until October 23. The speakers in the series of talks are: Seymour P. White, Walter W. Cohn, Thomas H. Hanrahan, Sidney Detmers, Fenton M. Parke, Eugene L. Klocke, Stephen T. Lockwood, Edward P. Lupfer, Ernest M. Hill, Charles L. Gurney.

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Griffenhagen and Associates, Chicago.—Under a special act of the legislature, a comprehensive study of the city government of Waterbury has been undertaken. It is under the direction of a citizen commission of five members, all residents of Waterbury, appointed by the governor of Connecticut. The city administration of Waterbury, though expressing some dissatisfaction with the fact that the study is imposed on the city by the state, has expressed its intention of coöperating wholeheartedly. Griffenhagen and Associates have been selected to serve as the technical staff and to conduct the work under the direction of the commission.

The work to be done involves primarily an examination of the finances and financial administration of the city. Naturally, one of the phases of the work will be a thorough audit of financial conditions. The improvements suggested will be tied up with amendments to the city charter, authorizing or prescribing the organization and procedure recommended by the report.

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Milwaukee Citizens' Bureau.—The activities of the legislature have held the attention of the Citizens' Bureau during the longest session in the history of Wisconsin.

A detailed study was made of the gasoline tax, especially with relation to the increasing gasoline tax in other states, the decreasing price of gasoline, and the effect of the two upon consumption of gasoline. A summary report was submitted to the legislature and the detailed compilations by states are now being made available for distribution. The Citizens' Bureau's conclusion was that the proposed increase in gasoline tax from two to three cents would not solve Wisconsin's problem of building a 5000-mile system of hard-surfaced roads. The Wisconsin Highway Commission has said frankly that, at our present rate of unconnected road construction, it will be 30 years before such a system could be completed. The legislature had the problem of deciding whether it would create a centralized fund for construction of through roads under the newly organized full-time highway commission, or whether it would continue the past policy of unconnected road construction. After months of discussion, all gasoline tax bills failed to pass.

The use of home rule in cities and villages other than Milwaukee was compiled from the secretary of state's office records.

The amount of fees and commissions paid by the courts to physicians has been compiled for the year 1928 from the county auditor's office.

In spite of the efforts of civic organizations, an amendment to the home-rule enabling act was passed which will make it practically impossible for Milwaukee to have a comprehensive home-rule charter. The Citizens' Bureau acted as the staff to the charter-drafting committee which

worked for two years to prepare a complete revision of Milwaukee's charter of 1874 as amended. Efforts have been started to have the 1929 amendment repealed.

A brief was submitted to the legislature opposing a special assessment law for Milwaukee which provided for the continuance of the present optional practice of having the commissioner of public works determine the amount of special assessments and damages, subject to the approval of the common council. Aside from the major question of policy as to whether the commissioner of public works, or whether more than one man should make the initial assessments and damages, the Citizens' Bureau objected to the bill because it represented merely a further effort to patch legislation dating back to the city charter of 1852. The bill failed to embody, in fact it utterly ignored, all that knowledge and experience which other large cities had gained through wrestling with modern city problems over the past half century. There were also many other technical reasons for considering this bill unsatisfactory for modern conditions, such as the inadequate notice of review of the assessment of benefits and damages. The bill was amended so that a commission of three appointed by the courts will henceforth assess benefits and damages.

A new pumping station, to be in operation by 1936, is under consideration by the water department. The Bureau is engaged in studying the feasibility of this proposed water extension.

⚜

National Institute of Public Administration.—The Institute is making a study of the consolidation of the villages of Tarrytown and North Tarrytown, Westchester County, New York. Charles F. Aufderhar is in charge of the work.

The state of New York, at the last session of the legislature, provided for a commission appointed by Governor Roosevelt and the legislature to make an investigation of poor relief and to report a bill in 1930 for the establishment of an old-age pension system in New York State if the commission feels that this is necessary. The research objectives include the following.

1. How many aged in the state of New York are now in want?
2. What kind of people compose this group?
3. What appear to be the chief causes of old-age want?
4. Hiring age limits in industry.
5. What is being done now by the state of New York for the aged?
6. What is being done by private agencies in New York state?
7. What systematic methods of dealing with the aged poor have been adopted in other states?
8. What have other nations done to meet the problem of old-age want?
9. What are the chief questions which must be decided in arriving at a policy for the state of New York?
10. What are the estimated costs involved?

The report for the commission is being prepared by the National Institute of Public Administration. Senator Seabury C. Mastick is chairman of the commission and Luther Gulick is director of research.

⚜

New Bedford (Mass.) Taxpayers' Association.—The Association has recently issued two bulletins on the general subject of "The Increase in School Costs." A detailed comparison is made with the other cities in the state of Massachusetts in regard to the value of school plant per pupil, unit cost for support of the schools, and the membership in the elementary and high schools. The increase in the expenditures for education from 1913 to date are considered in detail and analyzed as to cause.

This analysis shows that the cost of education is not only the biggest single item, but has increased more rapidly than other items in the cost of government. The causes for the increase are given as the increase in attendance, particularly in the upper and more expensive grades; the decrease in the purchasing power of the dollar; and the constant increase in teachers' salaries and the expansion of the educational system. An analysis of these causes shows that, after eliminating the increase in attendance and the decrease in the value of the dollar, there is still an increase of 66% due to the expansion of the educational system.

It is hoped that, by developing these basic facts, the city government and the people will be able to think more clearly on matters of proposed increase in expenses for the schools.

⚜

New Mexico Taxpayers' Association.—The Association has prepared and submitted to the state comptroller, who has supervision over the

finances of the state and its sub divisions, a group of blanks to be used in connection with the preparation of budgets and the control of expenditures thereunder. The principal forms are:

1. A form to be used in the preparation of budgets by cities, towns, and villages.
2. A budget control record whereby the municipal authorities can ascertain at any time the amount of expenditures with reference to the budget estimates.
3. A form of monthly reports showing expenditures under the budget, copies of which are to be sent to the office of the state comptroller.

Schenectady Bureau of Municipal Research.—The report on the space and condition survey of the intermediate and grade schools in Schenectady has been completed and copies will shortly be available for general distribution. The purpose of this survey, which was the result of many months of work on the part of the Bureau staff, was to obtain accurate knowledge of the physical condition of all school buildings and also to determine the extent of pupil utilization of school plants.

The purchasing committee, appointed by the board of directors, met recently and approved the study transmitted to them some months ago. A few minor changes were required and the managing director was asked to draw up a summary of the study for approval by the committee. The report recommends the consolidation of Schenectady buying agencies and the establishment of a central storeroom in order to effect greater economies in city buying.

The Schenectady County League of Women Voters has appointed a committee from its membership to work with the Bureau in the amplification of its charities survey. The managing director of the Bureau plans to visit cities in which charity work is being well handled and, at the conclusion of these visits, the findings will be discussed with the committee and with local social workers. The Bureau is attempting to bring about consolidation and greater efficiency in local welfare administration.

NOTES AND EVENTS

EDITED BY H. W. DODDS

The New York Dwellings Law and Home Rule.—The much-mooted Dwellings Law, enacted by the 1929 New York State legislature to replace the Tenement House Law of 1901, has been sustained in the highest tribunal of the state by a divided court. The act itself has already received attention in these columns.[1] It was warmly opposed by the neighborhood associations as too feeble, by various real estate groups because it went too far, and by the city administration which believed its opponents were more numerous than its supporters. The latter included the larger social agencies and the responsible leadership of the more important real estate organizations in the city. The measure was promptly attacked in the courts as a violation of home rule.

The New York home rule amendment, ratified in 1923, gives the cities of the state power to pass local laws respecting "the property affairs and government of cities." This language was repeated from the 1894 Constitution which gave the mayors of cities a veto over legislative acts relating to "the property, affairs, and government of cities." This clause had been frequently before the courts, and the framers of the home rule amendment sought to incorporate this judicial construction. This was well understood at the time. The Court of Appeals adopts this view. The majority opinion, however, is replete with indications of scant enthusiasm for home rule and an intention to limit it quite strictly.

The truth of the matter is that municipal home rule has few true friends in the city. The movement began back in the Mitchel administration, which is justly regarded as the high water mark of constructive civic effort in the city. That tide rapidly receded with advent of Hylan, with his promise to send the "experts" from the city on the first train. A few put principle above personalities, but important groups insisted that their interests be excepted. The school teachers feared Hylan's attitude toward education. Social workers feared to let him lay his heavy hands on the tenement house code. The traction interests saw to it that public utility problems were left out. And the Republican machine exempted the county governments in New York City in which at that time they had some share.

Even with such home rule as survived, the old legislative habits die hard. Even at the last legislative session Mayor Walker, who talks home rule whenever he happens to think about it, sponsored bills in Albany to increase policemen's salaries, establish a sanitary department and a planning board, and do numerous other things, some of which, being rejected, have since been accomplished at home. And the Citizens Union, no less devoted an advocate of home rule, saw no inconsistency in pressing for legislation which would substitute a convention for the direct primary and give us P. R. Effective home rule in New York State is reduced to control over governmental structure and little else, but even in this restricted domain there is a constant tendency on the part of the present administration and its friends and foes to appeal to Albany. The Dwellings Law decision will swell this trend.

JOSEPH MCGOLDRICK.

Columbia University.

[1] See NATIONAL MUNICIPAL REVIEW for May, p. 305.

*

P. R. Probably Constitutional in Texas.—Texas may experience attempts to adopt proportional representation in two cities this winter. If Houston or Dallas adopts this system for the election of councillors, the constitutionality of the Hare system will probably be raised in the courts of Texas. Because this problem has generally followed the introduction of P. R. in municipal elections in other states, the legal phase of the Hare system is as significant as the social value of proportional representation.

Investigation has demonstrated that the courts of this state would be justified in upholding charter amendments providing for P. R. Not only does Texas authorize "home rule" charters, but also the historical development of the law here offers little basis for objecting to the Hare system. In some states, cases have been decided on the meaning of the right to vote "for all officers," and in other jurisdictions the courts have endeavored to interpret constitutional provisions for voting "at all elections." One or the other of these phrases generally plays a conspicu-

ous part in legal decisions involving the constitutionality of P. R. The jurists are required to decide whether or not the right safeguarded by the particular phrase is violated by a charter provision that allows the elector's vote to contribute to the election of only one of several officers to be chosen from an election district. It is of interest that in 1875 at the Texas Constitutional Convention the proposed constitution was amended so that the phraseology was changed from " . . . at elections . . . " to " . . . for . . . elective officers. . . ." That the delegates placed no different interpretations on the two phrases indicates they were intended to serve the same purpose. This fact may be of value in interpretating the constitutions of other states.

In regard to the background of such constitutional provisions, Texas has had an experience in line with New York and other states. It can hardly be doubted that the purpose was to safeguard locally the application of the "Jacksonian Democracy" which included the elimination of property qualification for electors. One of the delegates to the Texas Constitutional Convention is on record as having said, while discussing the measure mentioned above, ". . . that he would be false to the duty which, as a delegate, he owes to the working classes of this state, if he did not most earnestly protest against an incorporation in the organic law of any provision tending to hinder the electors in the free exercise of that right." It is quite evident that the delegates were not attempting to do more than to establish popular suffrage firmly in the Constitution of 1875. The Hare system of proportional representation in no way was involved. Furthermore, the Texas courts have in *State* v. *McAlister* (88 Texas 284) a definite ruling that may contribute to a decision holding that the Hare system is constitutional in Texas.

ROLLAND BRADLEY.

Texas House of Representatives.

✻

University of Chicago to Hold Police Conference.—The University of Chicago will hold its first police conference November 11 and 12, 1929. Chief August Vollmer, now a member of the University of Chicago faculty, will be the director of the conference, Chief William P. Rutledge of Detroit will be associate director, and Bruce Smith of the Institute of Public Administration, who is now directing a survey of the Chicago police, will be consultant.

The conference is called to discuss the way of preparing the uniform annual police report recently recommended by the Committee on Uniform Crime Records of the International Association of Chiefs of Police, called "A Guide for Preparing Annual Police Reports." Several departments have already issued reports in accordance with this guide, and it is hoped as a result of the conference to extend its use very rapidly.

The conference will also discuss the second report of the Uniform Crime Records Committee on methods of keeping and reporting accurate and uniform records of offenses known to the police. Although the national reporting scheme proposed by the committee has not yet gone into effect pending action at Washington, the new methods will be carefully explained so that police departments can rapidly introduce them.

Police departments in every part of the United States are cordially invited to send one or more representatives to this conference. The meetings will be held in the New Social Science Building, University Avenue and 59th Street. There will be a meeting each morning at 10:30, and another session in the afternoon at 2:30.

Further information may be secured by writing to Chief August Vollmer, University of Chicago.

✻

Socialist Party Establishes Municipal Research Bureau.—The Socialist Party, at 7 East 15th Street, New York City, has established a municipal research bureau and will publish periodically *Municipal Research Reports*. A collateral service is a bi-weekly news digest of New York politics published by the same bureau. Louis Stanley is director, and Lawrence Rogin, assistant director. The annual subscription to the publications of the bureau is $5.00.

The first copy of *Municipal Research Reports* is devoted to an historical survey of the rise of cities in the United States and the practice and results of municipal reform. The gist of the argument is that municipal reform has been a businessmen's movement against graft and inefficiency. Their slogans have left the great masses of the city population, the workers, cold, because municipal reform presented no fundamental program to aid them. The history and platform of the National Municipal League are reviewed in detail as indicating the scope and shortcomings of the reform movement. Municipal reform is limited, it is asserted, by its middle-class origin.

The problem of municipal government needs all the light that can be thrown upon it and we welcome this new addition to the already formidable list of leagues, associations and bureaus trying to solve the municipal puzzle.

✻

Town Planning in Central Africa.—A. E. Mirams, F.S.I., F.R.S.I., who is consulting surveyor to the government of Bombay has been named on the recommendation of the ministry of health and the colonial office, as town planning adviser to the government of Uganda.

Mr. Mirams is already touring in Kenya and Uganda and expects to remain in East Africa for at least six months.

It is understood that Mr. Mirams will be expected to advise the Uganda government not only on town planning generally but on improvements of existing towns, including water supply, drainage and lighting problems. This is all very interesting as showing to some extent the great progress which is being made throughout the world in town planning and the organization of municipal activities on modern and up-to-date scientific lines. The idea of town planning in Central Africa a few years ago would be scoffed at as being absurd and in advance of the times, but it is not too much to say that the proper layout and development of native towns is one of the duties of empire, and we congratulate the government of Uganda on its foresight.

✻

Ohio Reapportionment Vote Postponed.—In the July issue of the NATIONAL MUNICIPAL REVIEW a movement for reapportionment of representation in the Ohio General Assembly to afford a more equal voice to the urban areas was outlined. Senator George H. Bender of Cleveland, who was responsible for the movement to secure signatures to an initiative petition for a constitutional amendment, announces that sufficient signatures have been obtained. Supporters of the status quo are inclined to doubt this statement as the constitution requires that the petition must be signed by 5 per cent of the voters in one-half of the counties. Less than one-fourth of Ohio's counties are definitely urban. It is not likely that the truth will be learned soon, however, as Senator Bender has agreed to postpone the submission of his petitions until 1930 so that his issue will not be confused with the referendum on the classified property amendment which will be voted upon in November, 1929.

HARVEY WALKER.

✻

Graft in Pasadena.—A former city engineer, two minor employees, and three directors have been indicted in Pasadena, California, for conspiracy to overpay on city work. It appears that something like $100,000 has been expended on several projects in excess of the proper cost. It is probable that other indictments may yet be forthcoming. The projects involved cover both street paving, and out-fall sewer construction.

The bright spot in the whole situation is that it was brought to light through the honesty of other city employees and that the accused are being promptly prosecuted. The city administration as a whole is not involved, the charges being confined to a very small group of men who have been close friends.

✻

Charter Committee Wages Third Campaign for Council.—The city charter committee of Cincinnati, Henry Bentley, president, is in the field for a third time with a slate of candidates for the city council. Friends of good government will wish for it the same success that was attained in the two earlier campaigns. Cincinnati leaders recognize that no form of government can be abandoned to its enemies. They understand that the city council is the center of gravity in the manager plan and that no amount of emphasis upon the office of manager can overcome this physical fact.

✻

Manager Government Preserved.—The voters of Portland, Maine, last month decided to retain the city manager government, following a strenuous effort to overthrow it. The majority for retention was 494. The chairman of the local League of Women Voters acknowledges the assistance of the National Municipal League in the following words: "Your advice and help were of great value to us. Thank you for your support."

✻

Report on Model Accounts.—A feature of the twenty-ninth annual convention of the Union of Canadian Municipalities as reported in the *Municipal Review of Canada* was the submission of a model set of final accounts comprising the financial report of a municipality. E. T. Samp-

son, city clerk of Outremont, Quebec, was chairman of the committee making the report. The honorary president of the Canadian Union is Dr. W. D. Lighthall, who for many years has been a vice president of the National Municipal League.

✻

Philadelphia Abandons Plan to Buy Rapid Transit Underliers.—Philadelphia has given up its plan to condemn the P. R. T. underliers for $139,000,000, the sum demanded by the owners. The proposal was discussed by the present writer in the REVIEW for October, 1928, and its progress further reported in the issue of last April.[1]

In order to put through the condemnation of the underlying street railways, it was necessary for the city to obtain a court order that the indebtedness incurred for this purpose would be self-sustaining. Controller Hadley refused to sign the necessary papers to accomplish this and the city administration brought mandamus proceedings against him. The lower court upheld the controller and the city took an appeal to the supreme court.

During the summer a factional fight developed in the Republican organization, Mayor Mackey joining with the Republican League against the Vare organization. Realizing the unpopularity of the underlier condemnation, both Mayor Mackey and the city council endeavored to place the blame on each other. Finally, just before the primary election a special meeting of the city council, which is controlled by the Vare organization, was called and passed a resolution withdrawing from the condemnation of the underliers and directing the city solicitor to end the appeal taken to the supreme court. The condemnation proceedings are thus finally ended.

Incidentally, the council also directed the withdrawal of the city's appeal in the Locust Street subway case and vigorously attacked the declaration of the special $600,000 dividend paid last August by the Philadelphia Rapid Transit Company.

HAROLD EVANS.

✻

Professor Lundquist Made Executive of St. Paul Welfare Board.—Readers of the REVIEW who read Mr. Lefkovitz's article in the August number, "St. Paul Cleans Up Its Welfare Administration," will be glad to know that Professor G. A. Lundquist of the University of Minnesota has been named executive secretary of the new board of public welfare. Professor Lundquist is an author of note on sociological matters. It is felt that the abolition of the old board of control and the creation of a new board of public welfare designated by the mayor will mark a distinct improvement in St. Paul's welfare administration.

✻

Close-up of New York Regional Plan.—The newly organized Regional Plan Association of the New York Region has published a close-up of the Regional Plan completed after seven years at a cost of one million dollars. The pamphlet contains maps showing the major projects recommended and in the space of a few pages explains the essential features for the casual reader.

✻

The Bureau of Public Personnel Administration, with headquarters formerly in Washington, has moved its offices to Chicago under a coöperative arrangement with the University. The Bureau, representing civil service commissioners in the United States and Canada, is well known to readers of the REVIEW. The affiliation is in furtherance of the plan of the University of Chicago for wider research in governmental problems.

✻

The Citizens' League of Kansas City has for two years maintained a Citizens' League Council with gratifying results. The object of the council is to focus attention on civic issues. Following the discussions of the council, open to the public, committees of the League make recommendations for the guidance of the voters. The last session of the council considered whether the direct primary should be abandoned. The verdict of the committee on recommendations was that it should be retained.

✻

Automobile Testing Stations.—City Manager Sherrill of Cincinnati has established fifty automobile testing stations throughout the city, for the examination of brakes and lights of automobiles. The stations will be under the supervision of the city's safety director.

[1] See NATIONAL MUNICIPAL REVIEW, April, 1929, p. 281.